SUPREME COURT OF THE UNITED STATES.

No. 118.

SEBASTIAN WILLOT, JOHN McDONALD AND JOSEPH HUNN, PLAINTIFFS IN ERROR,

vs.

JOHN F. A. SANDFORD.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF MISSOURI.

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GIDEON, print.

Pleas before the honorable Robert W. Wells, district judge of the United States for the Missouri district, and one of the judges of the circuit court of the United States for the Missouri district, on the day of April, 1854.

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, JOHN MCDONALD and JOSEPH HUNN, defendants.

Be it remembered, that heretofore, to wit, on the twenty-eighth day of December, eighteen hundred and fifty-two, came the above named plaintiff by his attorney, and filed in the clerk's office of the circuit court of the United States for the Missouri district the following declaration against the said defendants:

Declaration.

UNITED STATES OF AMERICA,
District of Missouri.

In the circuit court of the United States, Missouri dist., April T., 1853.

John F. A. Sandford, who is a citizen and resident of the State of New York, plaintiff in this suit, complains of Sebastian Willot, John McDonald and Joseph Hunn, who are citizens and residents of the State of Missouri, as follows: On the first day of December, A. D. 1852, the plaintiff was entitled and is still entitled to the possession of the following described premises: A certain tract of land, containing 750 arpens, more or less, which was claimed by one Antoine Lamarche, as derived to him from the Government of Spain, was surveyed for said Lamarche by John Harvey, a deputy surveyor under the Government of the United States, and the plat of said survey duly certified by said Harvey, under date of December 20, 1805, and the same received for record by Antoine Soulard, surveyor general under the Government of the United States for the territory of Louisiana, February 27, 1806; which said tract is situate, lying and being on Lamarche's creek, alias Spencer's run, in Saint Charles county, Missouri, and the claim thereto was duly confirmed to the said Antoine Lamarche, or his legal representatives, by an act of Congress entitled "An act confirming claims to lands in the State of Missouri, and for other purposes," approved July 4, 1836; and so being entitled, the defendants, on the day and year last aforesaid, entered into said premises and unlawfully withholds from plaintiff the possession thereof, to the damage of the plaintiff ten thousand dollars, and therefore he sues.

GLOVER & CAMPBELL,
For the pl'ff,
With W. WRIGHT, *for same.*

Upon the foregoing declaration the following summons issued, viz:

Summons.

MISSOURI DISTRICT, *sct.*

The President of the United States, to the marshal of the Missouri district, greeting:

You are hereby commanded to summon Sebastian Willot, John McDonald and Joseph Hunn, citizens of the State of Missouri, that they be and appear before the honorable circuit court of the United States for the district of Missouri, at the next term thereof, to be held at the city of St. Louis, in and for said district, on the first Monday of April next, then and there to answer unto John F. A. Sandford, a citizen of the State of New York, in a plea of trespass and ejectment, to the damage of said plaintiff ten thousand dollars. Hereof fail not, and have you then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, the 28th day of December, A. D. 1852.

Issued at office, in the city of St. Louis, under the seal of said court, the day and year last aforesaid.

BEN. F. HICKMAN, *Cl'k*
Cir. court U. S., Mo. dist.

Upon the foregoing summons the marshal made the following return, viz:

Marshal's return.

I do certify, that I served the within summons on the within named John McDonald and Joseph Hunn, in St. Charles county, Missouri, on the 10th day of January, 1853, and on the 14th day of January, 1853, I served the same on Sebastian Willot, in St. Louis county, Missouri, by reading the same to and within the hearing of each of them, on the days and at the places above stated.

As witness my hand.

HIRAM H. BABER, *U. S. Marshal,*
By FRANCIS JONES, *Dep'y.*

Afterwards, at a circuit court, continued and held for the district of Missouri, at St. Louis, on Thursday, the 7th day of April, 1853, the following order was entered in this case, viz:

Plea of not guilty filed.

JOHN F. A. SANDFORD
against
SEBASTIAN WILLOT and others. } Ejectment.

The defendant, by attorney, comes and files plea of not guilty in this case. Which said plea is as follows, viz:

Plea.

In the circuit court of the United States for the district of Missouri, April term, 1853.

JOHN F. A. SANDFORD, vs. JOHN MCDONALD, SEBASTIAN WILLOT and JOSEPH HUNN. } Ejectment.

And the said defendants come and defend the wrong and injury, when, &c., and say that they are not guilty of unlawfully withholding the premises from the plaintiff, as he has above thereof alleged against them, and of this they put themselves upon the country.

COALTER,
Att'y for defendants.

Afterwards, at a circuit court, continued and held for the district of Missouri, at St. Louis, on Tuesday, the 4th day of October, 1853, the following further proceedings were had in said case, viz:

Motion for order of survey filed.

JOHN F. A. SANDFORD against SEBASTIAN WILLOT and others. } Ejectment.

This day comes the plaintiff by his attorney, and files his motion for an order of survey in this case. Which said motion is as follows, viz:

Motion for order survey.

In circuit court United States.

JOHN F. A. SANDFORD vs. WILLOT and others.

The plaintiff moves the court to grant the plaintiff an order of survey in this case.

GLOVER & RICHARDSON,
With W. WRIGHT, *for pl'ff.*

Afterwards, at a circuit court, continued and held for the district of Missouri, at St. Louis, on Thursday, the 6th day of October, 1853, the following further proceedings were had in said case, viz:

Order of survey.

JOHN F. A. SANDFORD, plaintiff, against SEBASTIAN WILLOT and others, defendants. } Ejectment.

On motion of plaintiff by his attorney, it is ordered that a survey be made of the land in dispute in this case, and by consent William H.

Cozzens is appointed to make said survey, and that he, at such time as he may appoint, proceed to survey and lay off the same as either party may require, having due regard for all deeds and other evidences of title that may be produced, reporting all matters of fact specially; and that he give notice to the parties, as their attorneys, of the time of making said survey, and that he make out and return to the clerk's office of this court three fair plats and reports of such survey, on or before the first day of the next term of this court.

Afterwards, at a circuit court continued and held for the district of Missouri, at Saint Louis, on Monday, the 17th day of April, 1854, the following further proceedings were had in said case, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Jury.

This day came the parties by their attorneys, and both being ready for trial, it is ordered that a jury come, &c.; and thereupon comes said jury, viz: David H. Silver, A. J. Minor, Wm. Shaw, W. P. Holman, James G. Price, John W. Martin, R. P. McCluney, Silas Silver, George Cox, W. A. Powell, A. Basye, and J. R. Mozier, who were sworn well and truly to try the issues joined, and the evidence in part heard, but not being concluded at the hour of adjournment, further proceedings are continued until to-morrow morning.

Afterwards, on Tuesday, the 18th April, 1854, the following further proceedings were had, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Trial progresses.

This day come again the parties by their attorneys, and the jury sworn herein were all present, and further progress made in the trial of this case; but not being concluded at the hour of adjournment, further proceedings are continued until to-morrow morning.

Afterwards, on Wednesday, 19th April, 1854, the following further proceedings were had in said case, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Trial progresses.

This day come again the parties by their attorneys, and the jury sworn herein were also present, and further progress made in the trial of this case; but not being concluded at the hour of adjournment, further proceedings are continued until to-morrow morning.

Afterwards, on Thursday, 20th April, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff, against SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Trial progresses.

This day come the parties by their attorneys, and the jury sworn herein were also present, and further progress made in the trial of this case; but not being concluded at the hour of adjournment, further proceedings are continued until to-morrow morning.

Afterwards, on Friday, 21st April, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff, against SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Trial concluded.

This day come again the parties by their attorneys, and the jury sworn herein being in court, and the evidence of both plaintiff and defendants being concluded, further proceedings are continued until to-morrow for argument of counsel.

Afterwards, on Saturday, April 22d, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff, against SEBASTIAN WILLOT, &c., defendants. } Ejectment.

This day come again the parties by their attorneys, and the jury sworn herein being all present, and the argument of counsel being closed, the said jury retired to their room to consider of their verdict, and afterwards returned into court the following verdict, viz:

Verdict of jury.

"We, the jury, find the defendant, Sebastian Willot, guilty of the trespass and ejectment complained of, as to the following portion of the premises claimed in the plaintiff's declaration, viz: Commencing at a point in the southern boundary line of the Antoine Lamarche claim, being also the northern boundary line of the Antoine Novel Priem claim, which point is one chain and twenty-five links eastward from a white oak at the northwest corner of the said Priem claim, being also corner to the said Lamarche claim; thence north 19 chains 50 links, to Joseph Hunn's southwest corner; thence along the division line between the tracts of said Willot and said Hunn, east 37 chains 50 links, to the eastern line of said Lamarche tract on Spencer's creek; thence up said Spencer's creek south 2° west, 24 chains, to a point in the northern line of the said Priem tract; thence with said Priem's northern line

north 23° west, 36 chains and 67 links, to the place of beginning, containing 80½ acres more or less; and that the said Willot is not guilty of the trespass and ejectment alleged as to the residue of the premises claimed in said declaration of plaintiff. And the jury find that by the said trespass and ejectment by said defendant, Willot, the plaintiff has sustained damages to the sum of one cent, and that the monthly value of the said premises as to which said Willot is guilty, is the sum of one cent. The jury find further, that the defendant, Joseph Hunn, is guilty of the trespass and ejectment complained of as to the following portion of the premises claimed in the plaintiff's declaration, viz: Commencing at the northwest corner of the aforesaid tract, as to which they have found said Willot guilty of the said trespass and ejectment; thence north 13 chains to the southwest corner of John McDonald; thence along the line between the tracts of said Hunn and said McDonald, east 38° west, to a point in the eastern line of the said Lamarche claim on Spencer's creek; thence up said creek with the same, south 2° west 13 chains, to the northeast corner of the said Willot's; thence with said Willot's northern line, west 30 chains 50 links, to the place of beginning, containing 49 acres more or less; and that the said Hunn is not guilty of the trespass and ejectment alleged as to the residue of the lands claimed in said declaration of plaintiff; and the jury find that by said trespass and ejectment last mentioned by said Hunn committed, plaintiff has sustained damage to the sum of one cent, and that the monthly value of the said last mentioned premises, as to which said Hunn is guilty, is one cent. The jury further find that John McDonald, the defendant, is guilty of the trespass and ejectment complained of, as to the following portion of the land claimed in the plaintiff's declaration, viz: Commencing at the intersection of the western line of the United States survey No. 1779, and the northern line of Joseph Hunn; thence north with the western line of said survey, No. 1779, to a point in the same where the southern line of Mrs. Snyder intersects therewith; thence east with Mrs. Snyder's southern line to her southeast corner; thence north with Mrs. Snyder's eastern line to Spencer's run; thence with said Spencer's creek following the meanders thereof, to the intersection of said creek and the northern line of said Hunn; thence with the northern line of said Hunn to the beginning. And as to the residue of said premises claimed in the plaintiff's declaration, the said defendant McDonald is not guilty. The jury find, that by the said trespass and ejectment by the said McDonald the plaintiff has sustained damages to the sum of one cent, and that the monthly value of the said premises as to which they have found said McDonald guilty, is the sum of one cent.

Judgment.

It is therefore now considered by the court, that the plaintiff, John F. A. Sandford, recover against the defendants, Sebastian Willot, Joseph Hunn, and John McDonald, the portions or parcels of land as de-

scribed by the jury in the verdict rendered herein by them. And it is further considered by the court, that the said plaintiff recover against said defendants the damages and monthly damages by said jury assessed, together with the costs by him about his suit in this behalf expended, and that execution issue therefor; and that said plaintiff have his writs of possession against said defendants for the portions of lands so adjudged in his favor.

Afterwards, on Tuesday, April 25th, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Motion for new trial, and in arrest of judgment filed.

This day come the defendants by their attorney, and file their motion, asking the court to set aside the verdict rendered herein, and to grant them a new trial, upon the grounds and for the reasons set forth in said motion; and said defendants also filed their motion in arrest of judgment, for the reasons set forth in said motion.

Afterwards, on Saturday, 29th April, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Motions overruled.

This day come again the *the* parties by their attorney; and the motions filed herein in arrest of judgment, and also to set aside the verdict and grant to the defendants a new trial in this case, being argued and submitted to the court, and the court being advised of and concerning said motions, do order that both of said motions be, and the same are hereby, overruled.

Afterwards, on Thursday, May 4th, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } Ejectment.

Judgment suspended.

This day come the defendants by their attorney, and on his motion, it is ordered that the writs of possession and execution for costs allowed to be issued in this case in favor of plaintiff against defendant be suspended, until some disposition is made of the same by the Supreme Court of the United States, a writ of error having been allowed by the judge of this court, and bond executed according to law.

Afterwards, on Monday, May 8th, 1854, the following further proceedings were had herein, viz:

JOHN F. A. SANDFORD, plaintiff,
against
SEBASTIAN WILLOT, &c., defendants. } In ejectment.

Bill of exceptions filed.

This day come again the defendants by their attorney, and file their bill of exceptions, which was signed, sealed and ordered to be made part of the record in this case.

Which said bill of exceptions is in the words and figures following, viz:

Bill of exceptions.

In circuit court of the United States, district of Missouri.

JOHN F. A. SANDFORD
vs.
JOHN MCDONALD, SEBASTIAN WILLOT,
and JOSEPH HUNN, defendants. } Ejectment.

Be it remembered, that on the trial of this cause the plaintiff introduced the following testimony: First, the transcript of a record from the office of the recorder of land titles, marked No. 1, which is in the words and figures following, viz.

Transcript of record from the office of the recorder of land titles.

TO THE RECORDER OF LAND TITLES
for the district of Louisiana:

Josiah McLanahan and Jacob Harry claim four hundred arpens of land situate in the district, being part of Antoine Lamarche survey, by virtue of the deeds No. 1 and 2, as hereunto annexed, which said tract was prior to and on the 30th day of December, 1803, actually inhabited and cultivated, by the permission of the Spanish government, by the said Antoine, who was then and there the head of a family; also, eight hundred arpens of land, situate and described in the deeds No. 3 and 4 and 6, hereunto annexed, which said tract was actually inhabited and cultivated on and ever since the first day of October, 1800.

E. HEMPSTEAD, *Their agent.*

RECORDER'S OFFICE, *Sept.* 20, 1851.

The original notice on file in this office shows that it was received for record June 30, 1808. ADOLPHE RENARD, *Recorder.*

No. 1.

Contrat de vente et de change, fait et passé à Sr. Charles, ce onze Novembre, de l'année de notre Seigneur mil huit cent six, entre Sr. Antoine Bricot dit Lamarche et Marie Bequet, sa femme, habitant du district de Sr. Charles, d'une part, et Sr. Bazile Hebert, habitant et commerçant de St. Charles, d'autre part, par lequel les dits Sr. et De Lamarche vendent et échangent, ceddent et abandonnent pour toujours au dit Sr. Bazile Hebert pour lui ses hoire ou ayens, causes tous les droits de proprieté qui lui ont été confirmés par les commissaires des terres sur une habitation qu'ils ont etablie, ensemble tous les batiments, parque, et bois de carrissage que se trouvent dessus la ditte habitation qui est située entre St. Charles et la Dardenne, sur le bord du ruisseau

Spencer, bornée du coté du sud par le Sr. Prieur, père, par le nord aux terres vacantes, par l'est au dit ruisseau et par l'ouest aux terres vacantes, ainsi que la ditte habitation se poursuit et comporte sans en rien retenir, ni reserver de la part des dits Srs. et De Lamarche suivant la jouissance de la ditte habitation jusqu'à la fin du mois de Juin-prochain, de la part du dit Sr. Bazile Hebert, il donne en échange au dit Sr. et De Lamarche, pour eux leure hoirs ou ayans causes, un emplacement et les batimens qui sont dessus, situé au dit St. Charles tenant d'un coté au Sr. Joseph Gervais de l'autre a la rue de traverse, qui le separe d'avec le Sr. Gabriel Latreille pardevant faisant face a la grande rue du dit lieu, et par l'autre bout au fleuve du Missouri, ainsi que le tout se poursuit et comporte sans en rien retenir ne reserver de la part du dit Sr. Bazile Hebert lequel pouve égaliser le dit exchange promets et s'oblige de payer aux dit Sieurs et De Lamarche, en a leur ordre, la somme de deux cent cinquante piastres dont cinquante en guerdes, et les deux autres cents en peaux de chevreuil razé et de recette a raison de deux livre et demie par piastres, lesquelles seront payés de la manière cy-après savoir cent cinquente piastres dont cinquente en guerdes dans le cours du mois de May de l'année mil huit cent sept, et les cent autres piastres dans le cours du mois du May de l'année mil huit cent huit. Plus le dit Bazile Hebert leur donne presentement une jeune zaure qu'il a achetté du Sr. Dacier, plus et enfin il lient quitte les dits Srs. et De Lamarche, de tout compte et billets. Jusqu'a ce jour et consent qu'il jouissent de la ditte habitation jusqu'a l'epoque cy-devant ditte. Et pour sureté du payement des sommes cy-dessus le dit Bazile Hebert, hypotheque l'habitation qui lui vient d'etre echangé jusqu'a parfait payment dicelle; les dits Lamarche et sa femme et le dit Bazile Hebert legarrantissent respectivement les biens cy-dessus échanges de tous donaire dettes and hypothèques et autre empechements generalement quel cenque excepté ceux qui pourraient survenir de la part du gouvernen nt plus les dittes parties se de possesant aussires respectivement pour eux leurs hoirs ou ayans causes de touts leur droits de proprieté sur les objets qu'ils viennent de changer. Enfin, le dit Bazile Hebert declare que l'emplacement quil vient de donner en échange provient de Mad'e Veuve Labbadie de la quelle il ein a fait l'acquisition et promet d'en donner le titre aux dits Srs. et De Lamarche, qui de leur coté lui promettent de lui livrer la pièce qui leur confirme leur habitation, des qu'il l'auront reçue des desdits commissaires, sans entre obligé par eux de faire auciene poursuite ni frais pour arpenter la ditte habitation, en foi de quoi les dits Srs. et De Lamarche et Bazile Hebert ont signés ou fait leur marque ordinaires sur le presente acte, qui est fait double à Saint Charles, les jours et an cy-devant dit.

ANTOINE BRICOT, dit
LAMARCHE, sa ⋈ marque.
MARIE BEQUET, sa ⋈ marque.
[L. S.] BAZILE HEBERT.

Signé, scellé et délivre in presence de
PRIEUR, CARBONNEAUX.

DISTRICT DE ST. CHARLES.

Sont personnelment comparus devant moi soussigné juge de la cour des plaidoyers communs du district cy-dessus dit les Srs. Antoine Bricot dit Lamarche, Marie Bequet son épouse, d'une part, et Sr. Bazile Hebert, d'autre part, qui ont déclarés avoir signés volontairement et librement l'acte de vente et d'échange des autres parts, comme étant leur volanté et dans le même moment ayent interrogé separement la ditte Dame Lamarche d'avec son maré, a déclaré avoir signé sans aucune contrainte; en foi de quoi j'ai signé et scellé le present, les jours et an que cy-devant. FRANCOIS DUQUETTE, [L. S.]

Recorded in book A, folio 244. M. WHERRY.
Nov. 13, 1806.

ST. CHARLES.

Received of Josiah McLanahan the within contents or sum of money due by Bazil Hebert to me, in full, this day, for which I assign all my right, title, claim and interest thereto to Josiah McLanahan, for value in full received, this twenty-seventh day of June, one thousand eight hundred and eight.

Marque ⋈ d' ANTOINE LAMARCHE.

Witness present—
LAURENT DUROCHER, témoin.
ANTOINE JANICSE, témoins.

No. 2.

To all people to whom these presents shall come, greeting:

Whereas a writ of fieri facias, at the suit of Robert Burns against the goods and chattels, lands and tenements of Bazile Hebert, was issued from the office of the prothonotary of the court of common pleas for the district of St. Charles, dated the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seven, to satisfy a judgment for the sum of two hundred dollars and twenty-nine cents and a half, which the said Robert in the said recorded against the said Hebert, in the words following, to wit:

TERRITORY OF LOUISIANA,
District of St. Charles, ss.

The United States of America, to the sheriff of the district of St. Charles, greeting:

Whereas Robert Burns, at our court of common pleas, before our judges, hath recovered against Bazil Hebert the sum one hundred and seventy-six dollars sixty-five cents, as also the sum of forty-nine dollars fourteen and a half cents, which to the said Robert were adjudged for his costs and charges in and about a certain suit laid out and expended, whereof the said Bazil Hebert is convicted, as appears to us of record. These are, therefore, to command you, that of the goods and chattels, lands and tenements of the said Bazile Hebert, you cause to be made the sum and costs aforesaid, and *and* that you have the

same before the judges of our said court on the last Monday of February next, to render to the said Robert Burns his damages and costs aforesaid, and for want of sufficient goods and chattels, land and tenements whereon to levy and make the same, we command you that you take the said Bazile Hebert, if he may be found in your bailiwick, and him safely keep, so that you have his body before the same judges on the said last Monday of February next, to satisfy the said Robert Burns his damages and costs aforesaid; and that you certify to our said judges how you have executed this writ; and have then there this writ.

Witness Timothy Kibby, esq., presiding judge of our said court, the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seven, and of our independence the thirty-second.

Teste: ROBERT SPENCER,
C. C. C. P. D. C.

By virtue of which said execution, I, Mackay Wherry, sheriff of the said district St. Charles, did, on the 18th day of January, in the year of our Lord one thousand eight hundred and eight, attach all the right, title, interest, and property of the said Bazile Hebert, in and to a certain tract or parcel of land, situate in the district aforesaid, containing four hundred arpens, and bounded on the south by lands belonging to Ant'e Prieur, on the north side by lands belonging to the United States, east by Spencer run, west by land belonging to the United States, which the said Bazil Hebert purchased by deed dated the 11th day of November, 1806, from Antoine Lamarche, as by the records will more fully appear; which said premises were by me publicly advertised according to law in the year aforesaid, and was on the 29th day of February, in the year 1808, by me exposed to public sale at the court-house door in the village of St. Charles, to satisfy the said executions; and whereas, Josiah McLanahan was the highest bidder for the same, for the sum of ninety-six dollars twenty-five cents:

Now, therefore, know ye, that by virtue of the authority vested in me, the said sheriff, by the law in such cases, and for and in consideration of the sum of ninety-six dollars twenty-five cents to me in hand paid by the said Josiah Mc*Mc*Lanahan, have bargained, granted, and sold, and do by these presents, bargain, grant, and sell, unto him, the said Josiah McLanahan, *ir* heirs and assigns, forever, all the right, title, interest, and property of him, the said Bazile Hebert, in and to the same premises, with all the buildings, appurtenances, to the same in any wise belonging:

To have and to hold the said premises, to him, the said Josiah McLanahan, his heirs and assigns, forever.

In testimony whereof I have hereunto set my hand and seal, this 2d day of March, 1808. Signed, sealed, and delivered in open court, and before the judges of the same, when sitting.

MACKAY WHERRY, [L. S.]
Sheriff of St. Charles district.

In presence of—
E. HEMPSTEAD,
R. EATON.

Be it remembered, that on the second day of March, in the year of our Lord one thousand eight hundred and eight, M. Mackay Wherry, esq., sheriff of the district of St. Charles, came into open court and acknowledged the above and foregoing to be his free and voluntary act and deed.

Given under the hand of the clerk of said court, with the seal of said court the annexed.

ROBERT SPENCER, [L. S.]
C. C. C. P. D. C.

DISTRICT OF ST. CHARLES, *ss.*

Recorded in the book No. 4, pages 414 and following, this twenty-seventh day of June, 1808.

HENRY HIGHT, *Recorder.* [SEAL.]

No. 3.—Nous, Antoine Gauthier et Elizabeth Bequest, mon épouse, sous nos marques ordinaires, et pardevant témoins, reconnaissons avoir vendue, et vendons par le present au S'r Bazile Hebert, ses heirs ou ayant causes, lui ceddons et abandonnent, des maintenant et pour toujours, huit cent arpens de terre dont vingt arpens de front sont pardevant l'habitation de Mr. Antoine Lamarche, ci-devant et actuellement, au dit S'r Bazile Hebert et separés de la ditte habitation par le dit ruis seau Spencer lesquels huit cents arpens de terre nous lui abandonnons, tels quils ont été arpentés et bornés et tel qu'il se comportent, et promettant lui garantir par le droit que nous avons de toute dettes, et hypotheques, sanc que personne ni nos heire ou ayens causes puissent y prétendre, la presente vente est ainsi faite moyennant ce qui suit savoir une terre au portage des Sioux provenant de Jos. Papin, et une autre terre aussi de Jos. Chalifon, située au portage des Sioux les quelles deux terres nous certifions avoir reçu du S'r Bazil Hebert, et qui lacquite des sus dits huit cents arpens de terre que nous lui avons vendu comme ci haut, a S'r Charles ci seize Février, mil huit cent et sept, et les dittes parties, Antoine Gauthier et son épouse, ayant declaré ne s'avoir signer, ont fait leurs marque ordinaire d'une croix, et tant qu'an dit.

Bazile Hebert a signé avec les témoins sous signé, après lecture faite.

ANTOINE GAUTHIER, sa ⋈ marque,
ELIZABETH BEQUETTE, sa ⋈ marque.

F. FRERAUL, *et témoin,*
P. RICHARD, *témoin.*

DISTRICT OF ST. CHARLES.

Sont comparus personnellement par deverant moi soussigné, juge des plaidoyers communs du district ci-dessus dit, le S'r Antoine Gauthier et son épouse, et Bazile Hebert, qui ont déclaré que l'acte cy-dessus avoit été librement et volant airement fait et signé par eux et la dite dame le tout bien examiné par moi, separement d'avec son mari, la dite dame a déclaré n'avoir été nullement contraint dans l'acte cy-dessus.

En foi de quoi j'ai signé et scellé le present, ce seixieme jour de Février, de l'an mil huit cent sept.

FRANCOIS DUQUETTE. [L. S.]

DISTRICT OF ST. CHARLES, *ss.*

Recorded in book A, folio 359, on this thirteenth day of May, 1808.

H. HIGHT, *R. D. S. C.*

No. 4.--To all persons to whom these presents shall come, Mackay Wherry, sheriff of the district of St. Charles, in the Territory of Louisiana, greeting:

Whereas a writ of fieri facias, at the suit of François Duquette, administrator of Joseph Lamarche, deceased, against the goods and chattels, lands and tenements of Bazile Hebert and Jaque Fecto, was issued from the court of common pleas for the district of St. Charles, dated the fourteenth of January, in the year of our Lord one thousand eight hundred and eight, to satisfy a judgment for the sum of sixty-six dollars twenty-seven and a half cents, which the said Francis Duquette in the same court recorded against the said Bazile Hebert, in the words following, to wit:

TERRITORY OF LOUISIANA,

District of St. Charles, greeting:

Whereas Francis Duquette, administrator, &c., at our court of common pleas, before our judges, hath recovered against Jaque Fecto and Bazile Hebert the sum of fifty-five dollars ninety-six cents damages, as also the sum of ten dollars thirty-one and a half cents, which to the said Francis Duquette, administrator, and were adjudged for his cost and charges in and about a certain suit laid out and expended, whereof the said Jaque Fecto and Bazile Hebert are convicted, as appears to us of record; these are therefore to command you, that of the goods and chattels, lands et tenements of the said Jaque Fecto and Bazile Hebert, you cause to be made the sum aforesaid, for his damages and costs aforesaid, and that you have the same before the judges of our said , and the last Monday of February next, to render to the said Francis Duquette for his damages and costs aforesaid, and for want of sufficient goods et chattels, lands et tenements, whereon to levy and make the same, we command you that you take the said Jaque Fecto and Bazile Hebert, if they may be found in your bailiwick, and them safely keep, so that you have their bodies before the same judges on the said last Monday of February next, to satisfy the said Francis Duquette his damages and costs aforesaid, and that you certify to our said judges how you have executed this writ; and have then there this writ.

Witness Timothy Kibby, esq., presiding judge of our said court, the fourteenth day of January, eighteen hundred and eight, and of our independence the thirty-second.

Attest: ROBERT SPENCER, [SEAL.]

C. C. C. D. St. C.

By virtue of which said execution, I, Mackay Wherry, the sheriff of the district St. Charles, did, on the eighteenth January, in the year of our Lord one thousand eight hundred and eight, attach all the right, title, interest, and property of the said Bazile Hebert, in and to a certain tract or parcel of land, situate in the district aforesaid, containing eight hundred arpens, and bounded on the west by Spencer's run; north by lands belonging to the United States, and formerly known by the name of Antoine Lamarche survey, which said premises were by me publicly advertised according to law, and sold on the 29th day of February, in the year of our Lord one thousand eight hundred and eight, by me exposed to public sale at the court-house door in the village of St. Charles, to satisfy the said execution; and whereas Josiah McLanahan was the highest bidder, for the sum of thirty-one dollars:

Now, therefore, know *he*, that by virtue of the authority vested in me, the said sheriff, by the law in such cases, and for and in consideration of the sum of thirty-one dollars to me in hand paid by the said Josiah McLanahan, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said Josiah McLanahan, his heirs and assigns, forever, all the right, title, interest, and property of him, the said Bazile Hebert, in and to the said land, with all the appurtenances thereunto belonging:

To have to hold said premises to him, the said Josiah McLanahan, his heirs and assigns, forever.

In testimony whereof I have hereunto set my hand and seal, this 2d day of March, in the year of our Lord one thousand eight hundred and eight. (The words seven and a half cents between the tenth and eleventh lines were interlined before signed.)

M. WHERRY,
Sheriff, district of St. Charles.

Signed, sealed, and delivered in presence of the court of common pleas in the district of St. Charles, in presence of—

E. HEMPSTEAD,
R. EASTON.

DISTRICT OF ST. CHARLES.

Be it remembered, that on the 2d day of March, in the year of our Lord one thousand eight hundred and eight, Mackay Wherry, esq., sheriff of the district of St. Charles, came into open court and acknowledged the above and foregoing to be his free and voluntary act and deed.

In witness whereof I have hereunto set my hand, and affixed the seal of the said court, the day and date above mentioned.

ROBERT SPENCER, [SEAL.]
C. C. C. P. D. C.

DISTRICT OF ST. CHARLES, *ss.*

Recorded in book A, pages 411 and following, this 27th day of June, 1808.

H. HIGHT, *R. D. St. C.* [L. S.]

No. 6.—To all people to whom these presents shall come, greeting:

Whereas Josiah McLanahan did, on the twenty-ninth day of February, in the year one thousand eight hundred and eight, at a sheriff's sale of the lands and tenements of Bazile Hebert, purchase one certain tract or parcel of land, situate in the said district of St. Charles, containing four hundred arpens, bounded on the south by lands of Antoine Prieur, on the north by vacant lands, east by Spencer's run, west by lands of the United States; and also one other tract of eight hundred arpens of land in the same district of St. Charles, and bounded in the west by Spencer's run, north by the lands of the United States, or however the same may be cutted, bounded, and described, as by the deeds thereof from Mc'ky Wherry, sheriff of the district of St. Charles, to the said Josiah McLanahan, bearing date the 2d day of March, in the year last aforesaid; witness by E. Hempstead and R. Easton, and certified to have been both acknowledged in open court by R. Spencer, C. C. C. P. D. S. C.; the first of which deeds is recorded in the recorder's office of the district of St. Charles, book A, pages 414 and following, and the second of which deeds is recorded in the said recorder's office, book A, pages 411 and following, reference thereto being had will more fully and at large appear. And whereas the said tracts of land were bought and purchased with the money of Josiah McClanahan and Jacob Harry, merchants in company, under the name and firm of McClanahan and Harry, and the said deeds ought to have been made to the said Josiah McClanahan and Jacob Harry, instead of being made to said Josiah McClanahan solely: Now, therefore, know ye, that I, the said Josiah McClanahan, in order to convey to the said Jacob Harry one moiety to which he's entitled of the tracts of land, and for and in consideration of the sum of one dollar to me in hand paid before the execution and delivery of these presents by the said Jacob Harry, have granted, bargained, and sold, and do by these presents grant, bargain, and sell, unto him, the said Jacob Harry, his heirs and assigns forever, the one equal half-part moiety of all my right, title, appurtenances, and interest in and to the said tract of land before described and referred to, with the privileges and appurtenances:

To have and to hold the said one equal undivided half-part or moiety of the said premises so as aforesaid conveyed, to me, the said Josiah McClanahan, with the appurtenances to him, the said Jacob Harry, his heirs and assigns, forever.

In testimony whereof I have hereunto set my hand and seal, this thirtieth day of June, in the year of our Lord one thousand eight hundred and eight.

JOSIAH McCLANAHAN. [SEAL.]

Signed, sealed, and delivered, in presence of—
E. HEMPSTEAD,
THOMAS F. RIDDICK.

DISTRICT OF ST. LOUIS, *ss.*

Personally appeared before me, Josiah McClanahan, the signer of the above deed, on this thirtieth day of June, in the year last above-said, and acknowledged the above deed to be his free and voluntary act and deed, hand, and seal, for the purposes therein mentioned.

Given under my hand, as justice of the peace for the township and district of St. Louis, the 30th day of June, 1808.

FRANCIS F. RIDDICK,
Justice of the peace.

See book D, pages 373, 374, 375, 376, 377.

Peter Chouteau, assignee of McLanahan & Harry, to Frederick Bates, recorder of land claims within and for the Territory of Missouri.

SIR: Please to take notice, that by virtue of the within deed I claim 800 arpens of land as stated in the same.

PETER CHOUTEAU,
By his agent, M. P. LEDUC.

To all whom these presents shall come, greeting:

Know ye, that we, Josiah McLanahan and Jacob Harry, of the town and district of St. Louis, in the Territory of Louisiana, for and in consideration of the sum of ten dollars to us in hand paid by Pierre Chouteau, of the same place; the receipt whereof we do hereby acknowledge, have assigned, transferred, and set over to him, the said Pierre Chouteau, his heirs and assigns, forever, and do by these presents assign, transfer, and set over to him, the said Pierre Chouteau, his heirs and assigns forever, all the right, title, interest, and property which we both or either of us have, or ever have had, in and to the tracts of land hereinafter described, to wit:

A tract, containing 400 arpens, situate in the district of St. Charles, bounded south on lands of Antoine Prieur, north on United States lands, east on Spencer's run, west on United States land, purchased by Bazile Hebert on the 11th day of November, in the year 1806, from Antoine Lamarche, as by deed thereof on record in the said district of St. Charles will appear; also a tract of 800 arpens of land, situate in the same district, and adjoining the first described tract, both of which said tracts were by the said Josiah McLanahan purchased at a sheriff's sale, as by the deeds of Mackay Wherry, esq., sheriff of St. Charles district, to the said McLanahan, dated the second day of March, in the year 1808, recorded in the recorder's office of said district, will more fully appear; the one moiety of which said tracts was by the said Josiah McLanahan conveyed to the said Jacob Harry, by deed dated the thirtieth day of June, 1808, reference to the same, recorded in the office of the recorder of land titles for the district of Louisiana, will more fully and at large appear:

To have and to hold all the rights, title, and interest of them, the said Jacob Harry and Josiah McLanahan, in and to the said premises, to him, the said Pierre Chouteau, his heirs and assigns, forever.

In testimony whereof we have hereunto set our hands and seals, this eleventh day of July, one thousand eight hundred and eight.

JOSHUA McLANAHAN, [SEAL.]
JACOB HARRY. [SEAL.]

Signed, sealed in presence of—
THOMAS F. RIDDICK, } *Witnesses.*
J. MACKLOT, }

DISTRICT OF ST. LOUIS,
Township of St. Louis.

Personally appeared before me, the subscriber, a justice of the peace for the township of St. Louis, Josiah McLanahan and Jacob Harry, who acknowledged the within instrument of writing to be their voluntary act and deed, for the purposes within mentioned, and pray that the same may be admitted of record as such.

Given under my hand at St. Louis, the eleventh day of July, one thousand eight hundred and eight.

THOMAS F. RIDDICK.

LOUISIANA TERRITORY, *St. Louis district.*

Recorded, book , page 195 and following, this 14th day of January, 1809.

M. P. LEDUC, *Recorder.* [SEAL.]

TERRITORY OF LOUISIANA,
District of St. Charles, ss.

I, Henry Hight, recorder of the district aforesaid, certify, that the within instrument of writing was on the nineteenth of July, one thousand eight hundred and nine, by me recorded in book A, pages 389, '0.

Witness my hand and seal the day and year aforesaid.

H. HIGHT. [SEAL.]

See book F, page 261, minutes of the recorder of land titles, acting as commissioner under the act of Congress entitled "An act making further provision for settling the claims to land in the Territory of Missouri," passed the 13th day of June, 1812, and other acts subsequently passed.

FREDERICK BATES, *Commissioner.*

Bates' minutes, p. 1. St. Louis, Dec. 31, 1813.

Peter Chouteau, asn. McLanahan and Harry, claiming 800 arpens of land near Spencer's run, c'ty of St. Charles, produces transfer from McL. and Harry, who are said to be ass's of Hebert dit Dissonet.

Peter Dissonet, duly sworn, says, that Dissonet inhabited and cultivated this tract 15 years ago, and continued to do so till about 8 years ago. (Bates' minutes, pp. 133 and 139.)

(The following document put in brackets was on a separate piece of paper attached to this exhibit, and marked belongs to page 11, and is here inserted.—CLERK.)

[Opinions of the recorder of land titles for Missouri Territory, as to claims entered under act of 13th June, 1812, and proven before 1st January, 1814, as provided by the act of 3d March, 1813, comprehending also the claims in the late district of Arkansas, which by act of 2d August, 1813, were permitted to be entered until 1st January, 1814, and proven until 1st of July, 1814, together with the extensions of quantity provided by 4th section of the act of 3d March, 1813, and confirmations under the act of 12th April, 1814.

Warr't or order of survey	Survey.	Notice to the recorder, by whom.	Quantity claimed.	Where situated.	Possess'n, inhabitation, & cultivation.	Opinions of the recorder.
		Peter Chouteau, ass'n McLanahan and Harry under Dissonet.	800 arpens.	Near Spencer's run, c'ty Saint Charles.	Possess'n, inhabitation, & cultivat'n by Dissonet, in 1798 to 1805.	Granted 640 acres to legal representat'es of Dissonet. Min's 1, p. 139.

RECORDER'S OFFICE, ST. LOUIS, *24th April*, 1851.

I certify that the above is correctly transcribed from page 1 of book No. 1, and page 37 in book No. 2, being two of the five small books in this office, with the following endorsement on the first, and also on the fifth book, believed to be in the handwriting of Frederick Bates, to wit:

"These five small books are originals in the proper handwriting of the undersigned, being his decisions on land claims since the adjournment of the late board. They were arranged and fairly transcribed for report to the Commissioner of the General Land Office, but not yet recorded in the books because they have no authority till sanctioned by Government.

"St. Louis, November 1, 1815.

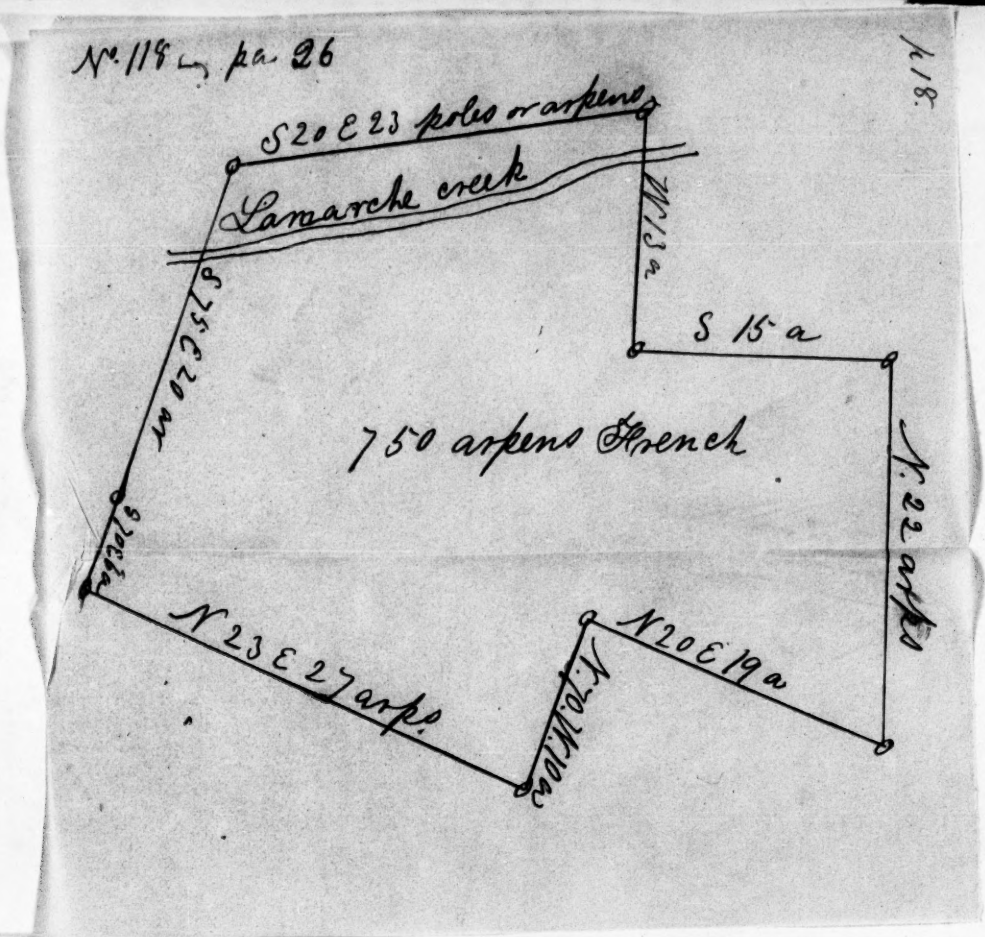
"FREDERICK BATES,
"*Recorder of land titles.*"

ADOLPHE REINARD,
U. S. recorder of land titles in the State of Missouri.]

Claim.

Antoine Lamarche claims 750 arpens of land, situate in the district of Saint Charles, under the second section of the act of Congress.

[*For map, see original, page* 26.]


No. 118 Surv. pa. 26
118.
S 20 E 23 poles or arpens
Lamarche creek
W 13 a
S 15 a
750 arpens French
N. 22 arpens
N 20 E 19 a
N 70 W 10 a
N 23 E 27 arps.
S 23 W 20 a
S 25 E 8

I do certify the above plot represents 750 arpens of land, French measure, situate in the district St. Charles, and surveyed by me at the request of Antoine Lamarche, who claims the same by virtue of his right of settlement, and by virtue of an act of Congress passed the second of last March.

Given under my hand the 20th of December, 1805.

JOHN HARVEY, *D. S.*

Received for record, St. Louis, 27th February, 1806.

ANTOINE SOULARD, *S. G. T. L.*

See book B, page 264.

SATURDAY, *November* 23, 1811.

Board met; present John B. C. Lucas, Clement B. Penrose, and Frederick Bates, commissioners.

Antoine Lamarche, claiming 750 arpens of land, situate Lamarche's creek, district of St. Louis, produces record of plat of survey, dated 20th December, 1805, and certified 27th February, 1806. It is the opinion of the board that this claim ought not to be granted.

Board adjourned till Monday next, nine o'clock, a. m. See Minutes' book No. 5, pages 442, 444, and 446.

CLEMENT B. PENROSE,
FREDERICK BATES.

No. 262, *page* 171.

TUESDAY, *March* 31, 1835.

F. R. Conway, esq., appeared pursuant to adjournment. Antoine Lamarche, by his legal representatives, claiming 750 arpens of land on Lamarche's creek in St. Charles county. See Minutes' book, No. 5, page 444; book B, p. 264.

The following testimony was taken in May, 1833, by A. G. Harrison, then one of the commissioners:

Pierre Palardi, being duly sworn, says: That he knew Antoine Lamarche; that said Lamarche lived on and cultivated a tract of land on Lamarche's run, under the Spanish government, 4 or 5 years; that at that time he had a wife and four children. The land spoken of is in St. Charles county.

Etienne Guenelle, being duly sworn, says: That having heard read the evidence of Pierre Palardi, as above, that he knows the same facts, and makes the same his own.

Ralph H. Flauherty, being duly sworn, says: That he knew the said Lamarche; that he lived on a tract of land on a creek now called Lamarche's creek, under the Spanish government, as witness believes; that he had a house and a field on said land; that he had a wife and several children at that time.

Adjourned until to-morrow, at 9 o'clock a. m.

F. R. CONWAY.

See Minutes, No. 7, pp. 111, 112 and 113.

262.

MONDAY, *June* 8, 1835.

The board met, pursuant to adjournment.

Present: F. R. Conway, J. H. Relfe, commissioners.

Antoine Lamarche, claiming 750 arpens of land. See book 7, page 111.

The board are of opinion that 750 arpens of land ought to be granted to the said Antoine Lamarche, or to his legal representatives, according to the survey on record in book B, p. 264.

Adjourned until to-morrow, at 9 o'clock a. m.

JAMES H. RELFE,
F. R. CONWAY.

I have examined and concur in the above decision.

F. H. MARTIN.

See Minutes, No. 7, pp. 168, 171 and 172.

RECORDER'S OFFICE, ST. LOUIS,
September 20, 1851.

I certify that the foregoing, on pages 1 to 14, contains, to wit: 1. A complete transcript from the books, records, files and documents in this office, of the claim of "Peter Chouteau, ass'e McLanahan & Harry, under Dissonet," or the "legal reps. of Dissonet," to six hundred and forty acres of land, situated near Spencer's run, county of St. Charles, and which was confirmed by the second section of the act of Congress of the 29th April, 1816, entitled "An act for the confirmation of certain claims to land in the western district of the State of Louisiana, and in the Territory of Missouri." Document marked A, attached to page 11, is a part of the above transcript. And, 2d. A complete transcript from the books, records, plats, files and documents in this office of the claim of Antoine Lamarche to seven hundred and fifty arpens of land situated on Lamarche's creek, in St. Charles county. The said claim was recommended for confirmation, as per decision number 262, in the report made on the 30th September, 1835, to the Commissioner of the General Land Office, by the commissioners appointed, pursuant to the act of Congress approved the 9th July, 1832, entitled "An act for the final adjustment of private land claims in Missouri," and the supplementary act of the 2d of July, 1833, and the said claim was confirmed according to said recommendation, to the extent of seven hundred and fifty arpens, to Antoine Lamarche, or to his legal representatives, by the first section of the act of Congress approved the 4th of July, 1836, entitled "An act confirming claims to land in the State of Missouri, and for other purposes," as appears at page 245 of the printed copy of acts passed at the first session of the twenty-fourth Congress of the United States, which was transmitted to this office for the government of the recorder of land titles, by the said commissioner of the General Land Office, and is on file therein.

ADOLPHE REINARD,
U. S. recorder of land titles in the State of Missouri.

Also a translation of the deed of Lamarche and wife to B. Hebert:

Deed—Lamarche and wife to B. Hebert.

Contract of sale and exchange made and executed in St. Charles, this eleventh day of November, in the year of our Lord one thousand eight hundred and six, between Mr. Antoine Bricot, dit Lamarche, and Mary Bequet his wife, inhabitants of the district of St. Charles, of the one part, and Mr. Bazile Hebert, inhabitant of and merchant in St. Charles, of the other part, by which the said Mr. and Mrs. Lamarche sell and exchange, cede, and abandon forever, unto the said Bazile Hebert, for himself, his heirs and assigns, all the rights and property which have been confirmed to them by the land commissioners, upon a plantation which they have improved, together with the buildings, parks and building logs that are upon the said plantation, which is situated on Spencer's creek, between St. Charles and the river Dardenne; bounded south by Mr. Prieur, sen'r, north by the vacant lands, east by said creek, and west by the vacant lands, such as the said plantation now stands, without detaining or reserving any thing thereof on the part of the said Mr. and Mrs. Lamarche, except the use of the said plantation until the end of the next June. The said Bazile Hebert, on his part, gives in exchange unto the said Mr. and Mrs. Lamarche, for themselves, their heirs or assigns, a lot of ground, with the buildings thereon, situated in said St. Charles, adjoining on one side to Joseph Gervais; on the other to the cross street separating the lot from Gabriel Latreille; in front by the main street of said village, and in the rear by the river Missouri, such as the whole is and now stands, without retaining or reserving any thing on the part of the said Bazile Hebert, who, in order to equalize the said exchange, promises and binds himself to pay to the said Mr. and Mrs. Lamarche, or to their order, the sum of two hundred and fifty dollars, of which fifty in money, and the two hundred remaining in marketable deerskins, at the rate of two and a half pounds per dollar, that shall be paid in the following manner, to wit: One hundred and fifty dollars, of which fifty in money, during the month of May, of the year one thousand eight hundred and seven, and the other one hundred dollars during the month of May, one thousand eight hundred and eight. Moreover, the said Bazile Hebert gives them a young heifer which he bought from Mr. Dacier; moreover, and in fine, he acquits the said Mr. and Mrs. Lamarche of all accounts and notes up to this day, and he consents that they use and occupy the said plantation until the time here before expressed. And for the surety of the payments of the above sums, the said Bazile Hebert mortgages the said plantation, which *he* has just been exchanged, until said payments are made and perfected; the said Mr. and Mrs. Lamarche and Bazile Hebert mutually warrant to each other the above real estate from all dowers, debts, mortgages and other impediments whatever, except those that might arise from the Government. Moreover, the said parties divest mutually themselves, their heirs and assigns, from all their rights of prop-

erty to the objects which they have thus exchanged. In fine, the said Bazile Hebert declares that the said lot, which he has now given in exchange, comes from Mrs. Widow Labadie, of whom he acquired it, and he promises to give the title thereof to the said Mr. and Mrs. Lamarche, who, on their side, promise to deliver to him the document by which their plantation is confirmed, so soon as they have received the same from the commissioners; and they will not require him to take any step nor incur any expense to survey the said land.

In faith whereof, the said Mr. and Mrs. Lamarche and Bazile Hebert have signed, or made their customary mark upon the present deed, which is executed in duplicate, at St. Charles, the same day and year as before said.

ANTOINE BRICOT, alias LAMARCHE,
His ⋈ cross.
MARY BEQUET, her ⋈ mark. [SEAL.]
BAZILE HEBERT.

Signed, sealed and delivered, in the presence of
PRIEUR CARBONEAUX.

DISTRICT OF ST. CHARLES.

Personally appeared before me, the undersigned, judge of the court of common pleas of the said district, Antoine Bricot dit Lamarche and Mary Bequet, his wife, on the one part, and Bazile Hebert, of the other part, who have declared to have voluntarily and freely signed the foregoing deed of sale and exchange; and, at the same time, having interrogated the said Mrs. Lamarche, apart from her husband, she has declared to have signed, without any constraint or coercion.

In faith whereof, I have signed and sealed the present, in the year and on the day before written.

FRANCIS DUQUETTE. [SEAL.]

Recorded, Book A, folio 244.

M. WHERRY.

Nov'r 13, 1806.

ST. LOUIS, *20th April*, 1854.

I have correctly translated the foregoing.

ADOLPHE REINARD.

Also translation of deed of Gauthier and wife to B. Hebert.

Deed—Gauthier and wife to B. Hebert.

We, Antoine Gauthier and Elizabeth my wife, under our customary marks and before witnesses, acknowledge to have sold, and to sell by these presents unto Mr. Bazil Hebert, his heirs or assigns, and we do cede and abandon to him, now and forever, eight hundred arpens of land, of which twenty arpens in front face the plantation formerly belonging to Mr. Antoine Lamarche, and now to said Bazile Hebert, and are separated from the said plantation by Spencer's creek; which eight hundred arpens of land we abandon to him, such as they now stand

as such, as they have been surveyed and bounded; and we do promise to warrant our right thereto from all debts and mortgages, forbidding any person or persons, our heirs or assigns, to set any pretensions to the same. This present sale is thus made for the following considerations, i. e. a tract of land in Portage des Sioux, coming from Joseph Papin, and another tract, coming from Joseph Chalifoux, likewise in Portage des Sioux; which two tracts we certify to have received of the said Bazile Hebert, thus giving acquittance for the above said eight hundred arpens of land, that we sold to him as before said. In St. Charles, this sixteenth February, one thousand eight hundred and seven. And the said parties, Antoine Gauthier and his wife, have declared not to know how to sign, and have made their customary mark of a cross, and the said Bazile Hebert has signed with the undersigned witness, after reading being made.

ANTOINE GAUTHIER, his ⋈ mark.
ELIZABETH GAUTHIER, her ⋈ mark.

F. FRERAULT, witness.
P. RICHARD, witness.

DISTRICT OF SAINT CHARLES.

Personally appeared before me, the undersigned, judge of the common pleas of the district aforesaid, Antoine Gauthier and his wife, and Bazile Hebert, who have declared that the foregoing deed had been signed by them, freely and voluntarily; and the said Mrs. Gauthier, being examined by me apart from her said husband, has declared to have signed the same without constraint or compulsion.

In faith whereof, I have signed and sealed the present, this 16th day of February, 1807.

FRANCIS DUQUETTE. [SEAL.]

DISTRICT OF ST. CHARLES, *ss.*

Recorded in book A, folio 359, on this thirtieth day of May, 1808.

H. HIGHT, *R. D. S. C.*

ST. LOUIS, *April 20th*, 1854.

I have correctly translated the foregoing.

ADOLPHE REINARD.

Testimony of John B. Sarpy.

Second. John B. Sarpy was duly sworn as a witness for the plaintiff, and testified that he was one of the executors of Pierre Chouteau, sr., deceased; that before the death of said Pierre Chouteau, he was called upon by said Pierre to examine some of his papers, and did so. In making such examination, witness fell upon an original deed from McLanahan and Harry to said Pierre; that he read it through; he well remembers that on said deed were the names of T. Matlock and Thomas F. Reddick, as attesting witnesses; that he was well acquainted with the handwriting of those persons, the witnesses, and at the time recognised the names of said witnesses to be in their respective hand-

writings. He was perfectly satisfied said deed was an original deed, from said McLanahan and Harry to said Pierre Chouteau, sen. He also testified, that after he saw said deed in the possession of said Chouteau, sen., P. L. Chouteau, a son of Pierre Chouteau, sen., came to the house of Mrs. Berthold, in the city of St. Louis, in very bad health, and some months afterwards there died. A number of the papers of Pierre Chouteau, sen., relating to business which James C. Musick had charge of, were taken to Mrs. Berthold's for the use of P. L. Chouteau before his death. After P. L. Chouteau's decease, at the request of Pierre Chouteau, sen., I made search among the papers of P. L. Chouteau, deceased, at Mrs. Berthold's, and tried in every way I could, but was unable to find said original deed. After the death of Pierre Chouteau, sen., I made search, as his executor, among all his papers, and in every place where said deed might be expected to be found, but never could find it, and now have no idea where it can be, unless it is in the hands of William M. Campbell, esq., an attorney at law, and who resided in this city and died some years ago, and who was employed to sue for the land now in dispute.

Testimony of J. C. Musick.

Third. James C. Musick, duly sworn as a witness on part of the plaintiff, stated that he was an agent of Pierre Chouteau, sen., deceased, in the prosecution of a suit upon this claim; that he supposes Mr. Wm. M. Campbell had said original deed of McLannahan and Harry in his possession, and may have given it to said Campbell; said Campbell was a single man, and lived in his office in this city, on Chestnut street; that, shortly before his death, he, said Campbell, went up to a relation's in St. Charles county, and there died. Joseph B. Wells, esq., now in California, was the partner in the practice of the law with said Campbell at his death. Immediately after his, Campbell's, death, witness called on said Wells, and in the presence of witness said Wells went over all the papers of the deceased, and searched for said deed, but neither the witness or said Wells could find it among said Campbell's papers, and now said witness has no idea where the said deed is to be found, though he has carefully examined his own papers.

On cross examination by defendant's counsel, the witness said he never had called upon any administrator of said Campbell in relation to said deed.

Fourth. A paper was then shown to the witness, John B. Sarpy, and said Sarpy testified to the jury that the same was a copy of the conveyance spoken of by him as the original deed from McLanahan and Harry to Pierre Chouteau, sen.

Deed—McLanahan & Harry to P. Chouteau.

To all to whom these presents shall come, greeting:

Know ye, that we, Josiah McLanahan and Jacob Harry, of the town and district of Saint Louis, in the territory of Louisiana, for and in

consideration of the sum of ten dollars, to us in hand paid by Pierre Chouteau, of the same place, the receipt whereof we do hereby acknowledge, have assigned, transferred, and set over to him, the said Pierre Chouteau, his heirs and assigns, forever, and do by these presents assign, transfer, and set over to him, the said Pierre Chouteau, his heirs and assigns, forever, all the right, title, interest, and property which we both, or either of us, now have or ever have had, in and to the tracts of land hereinafter described, to wit, a tract containing four hundred arpens, situate in the district of St. Charles, bounded south on lands of Antoine Prieur, north on United States lands, east on Spencer's run, west on United States land purchased by Bazil Hebert on the eleventh day of November, in the year 1806, from Antoine Lamarche, as by the deed thereof on record in the said district of Saint Charles will appear; also a tract of eight hundred arpens of land, situate in the said district, and adjoining the first described tract, both of which said tracts were by the said Josiah McLanahan purchased at a sheriff's sale, as by the deed of Mackay Wherry, esq., sheriff of St. Charles district, to the said McLanahan, dated the second day of March, in the year 1808, recorded in the recorder's offices of said district, will fully appear; the one moiety of which said tract was, by the said Josiah McLanahan, conveyed to the said Jacob Harry, by deed dated the thirtieth day of June, 1808, reference to the same, recorded in the office of the recorder of land titles for the district of Louisiana, will more fully and at large appear: to have and to hold all the right, title, and interest of them, the said Jacob Harry and Josiah McLanahan, in and to the said premises, to him, the said Pierre Chouteau, his heirs and assigns, forever. In testimony whereof we have hereunto set our hands and seals, the eleventh day *day* of July, in the year of our Lord one thousand eight hundred and eight.

JOSIAH McLANAHAN, [SEAL.]
JACOB HARRY. [SEAL.]

Signed, sealed, and delivered in presence of—
THOS. F. RIDDICK,
T. MACKLOT.

DISTRICT OF ST. LOUIS, *St. Louis township.*

Personally appeared before me, the subscriber, a justice of the peace for the township of St. Louis, Josiah McLanahan and Jacob Harry, who acknowledged the within instrument of writing to be their voluntary act and deed for the purposes within mentioned, and pray that the same may be admit of record as such. Given under my hand at St. Louis, the eleventh day of July, one thousand eight hundred and eight.

THOS. F. RIDDICK.

Recorded this 14th day of January, A. D. 1809.

M. P. LEDUC, *Recorder.*

STATE OF MISSOURI, *County of St. Louis, ss.*

I, the undersigned recorder in and for said county, certify the foregoing to be a true and complete copy of a deed from J. McLanahan and J. Harry to P. Chouteau, as also of the certificate of acknowledgment, and of the date of recording thereof, as fully as the same remains of record in my office in book B., page 195.

[SEAL.] Witness my hand and official seal, this 5th day of April, 1854.

C. KEEMLE, *Recorder.*

Fifth. The plaintiff offered in evidence the said paper, spoken of by the witness Sarpy as a copy, but the defendants objected to the reading of the same to the jury; but the court overruled said objection, and the said paper was read to the jury.

Sixth. The plaintiff offered a duly certified copy of the last will and testament of Pierre Chouteau, sen'r, deceased:

Will of P. Chouteau, senior.

Know all men by these presents, that I, Pierre Chouteau, senior, of the county of St. Louis, State of Missouri, for the purpose of settling my affairs and making a complete and final disposition of my estate, and in consideration of the love I bear to my children and grandchildren hereinafter named, do by these presents give, grant, convey, devise, transfer, and assign unto Pierre Chouteau, jr., Cyprien Chouteau, and John B. Sarpy, all my lands, tenements, and hereditaments, wheresoever situate and in whosoever possession they may be; and also all my goods, chattels, slaves, moneys, credits, effects, bonds, notes, rights and things in action, household and kitchen furniture, farming utensils, horses, carriages, live stock, and all other property of every name and description, and whether real, personal, or mixed, which I now own or may be in any wise entitled to, or which I may at any time hereafter acquire: to have and to hold the said premises, and every part thereof, unto them, the said Pierre Chouteau, jr., Cyprien Chouteau, and John B. Sarpy, and to the survivors of them, and to the survivor of the survivors, in trust and for the uses and purposes hereinafter ordered, directed, and expressed, and none other, that is to say: I desire and direct that the said Pierre Chouteau, jr., Cyprien Chouteau, and John B. Sarpy, or the survivors of them, or the survivor of the survivors, shall take full and immediate possession of my said property and estate after my decease, and at the expiration of one year thereafter, or as soon after the end of one year therefrom as conveniently may be done, shall pay out of the same, or out of the proceeds thereof, the following sums of money, to wit: To my son, the said Pierre Chouteau, jr., or he being then dead, to his heirs, they shall pay the sum of five thousand dollars; to my daughter Pelagie Berthold, or she being then dead, to her heirs, the like sum of five thousand dollars; to my son Paul Liguest Chouteau, or he being then dead, to his heirs, the like sum of five thousand dollars; to my son, the said Cyprien Chouteau, or he being then dead, to his heirs, the like sum

of five thousand dollars; to my son Charles Chouteau, or he being then dead, to his heirs, the like sum of five thousand dollars; to my son, Frederick R. Chouteau, or he being dead, then to his heirs, the like sum of five thousand dollars; to my daughter-in-law, Sophie Chouteau, widow of Auguste P. Chouteau, deceased, and her children, and their descendants, the like sum of five thousand dollars, to be equally distributed among them; and to my daughter-in-law, Berenice Chouteau, widow of my son, Francis Chouteau, deceased, and to her children and their descendants, the like sum of five thousand dollars, to be equally distributed among them; and after the payment of the above mentioned several portions, the said Pierre Chouteau, jr., Cyprien Chouteau, and John B. Sarpy, or the survivors of them, or the survivor of the survivors, shall hold the residue of my said estate and property to and for the sole and separate use and benefit of my said son, Pierre Chouteau, jr., and his heirs, to be used, enjoyed, and disposed of by him and them, as their absolute property, and in such manner as he shall think fit. In testimony whereof, I, the said Pierre Chouteau, senior, have hereunto set my hand and seal, this thirteenth day of November, in the year of our Lord one thousand eight hundred and forty-seven.

P'RE CHOUTEAU. [SEAL.]

Signed, sealed, and published by the said Pierre Chouteau, senior, in presence of us, who, in presence of each other, and in the presence and at the request of the said Pierre Chouteau, senior, have subscribed our names hereto as witnesses—

DU BOUFFAY FREMON,
BENJAMIN C. AMOUREUX.

STATE OF MISSOURI,
County of Saint Louis, ss.

Be it remembered, that on this twenty-second day of August, in the year of our Lord one thousand eight hundred and forty-nine, before me, Peter Ferguson, judge of probate of the county of Saint Louis, personally appeared Du Bouffay Fremon, one of the subscribing witnesses to the foregoing instrument in writing, who being by me duly sworn on his oath saith, that Pierre Chouteau, senior, told him that he had signed the foregoing instrument as his will, and published and declared the same so to be; that the signature, "P're Chouteau," was to said instrument, which he acknowledged to be his; that he, this affiant, and Benjamin C. Amoureux, subscribed their names to said instrument as witnesses thereto, in the presence and at the request of the testator and of each other, and that at the time of so doing, he, the said Pierre Chouteau, senior, was of sound and disposing mind, to the best of his knowledge, observation, and belief.

DU BOUFFAY FREMON.

Sworn to and subscribed before me, this 22d August, 1849.

PETER FERGUSON, *Judge of probate.*

STATE OF MISSOURI,
County of Saint Louis, ss.

Be it remembered, that on this tenth day of September, in the year of our Lord one thousand eight hundred and forty-nine, before me, Peter Ferguson, judge of probate of the county of Saint Louis, personally appeared Benjamin C. Amoureux, one of the subscribing witnesses to the preceding instrument in writing, who being by me duly sworn, on his oath saith, that he was present when Pierre Chouteau, senior, declared that the signature to said instrument was his, and heard him publish and declare the same to be his will; that he, said Amoureux, and Du Bouffay Fremon, the other witness, subscribed their names as witnesses thereto in the presence of said Chouteau, and that at the time of so doing, he, said Pierre Chouteau, senior, was of sound and disposing mind, to the best of his knowledge, observation, and belief.

BENJAMIN C. AMOUREUX.

Sworn to and subscribed before me, this 10th day of Sept., 1849.

PETER FERGUSON, *Judge of probate.*

STATE OF MISSOURI,
County of Saint Louis, ss.

Be it remembered, that at the September term of the probate court of the county of Saint Louis, in the State of Missouri, in the year one thousand eight hundred and forty-nine, begun and held at the city of Saint Louis, in and for the county aforesaid, the foregoing instrument in writing, signed P're Chouteau, which was filed in the office of the judge of said court, on the twenty-second day of August last, was on this tenth day of September, in the year before mentioned, brought into court; on examination whereof, and of the testimony of Du Bouffay Fremon and Benjamin C. Amoureux, subscribing witnesses thereto, it was considered by said court that said instrument was duly proved to be the last will of Pierre Chouteau, senior, and was ordered to be certified and recorded.

In testimony whereof, I, Peter Ferguson, judge of probate of the county aforesaid, hereto set my hand and affix the seal of the probate court of the county of Saint Louis, at office, in said county, [L. S.] this tenth day of September, in the year of our Lord one thousand eight hundred and forty-nine.

PETER FERGUSON, *Judge of probate.*

STATE OF MISSOURI, *county of St. Louis, ss.*

I, William F. Ferguson, clerk of the probate court of the county of Saint Louis, in the State of Missouri, certify, that the foregoing is a true copy of the last will and testament of Pierre Chouteau, senior, deceased, and the probate thereof, as the same now remains of record in the office of the judge of probate of the county of Saint Louis, in the record of letters and wills, book D, page 70 and following.

In testimony whereof I hereto set my hand and affix the seal of the probate court of the county of Saint Louis, at office, in said county,

this sixth day of April, in the year of our Lord one thousand eight hundred and fifty-four.

WILLIAM F. FERGUSON, *Clerk.*

Seventh. The plaintiff offered in evidence a certified copy of the letters testamentary granted on the said will:

Letters testamentary on P. Chouteau's will.

THE STATE OF MISSOURI,
County of Saint Louis, ss.

To all persons to whom these presents shall come, greeting:

Know ye, that the last will and testament of Pierre Chouteau, senior, deceased, hath in due form of law been exhibited, proved, and recorded in the office of the judge of the probate court for Saint Louis county, a copy of which is hereunto annexed; and inasmuch as it appears that no person has been appointed executor in and by the said last will and testament to execute the same; now these letters of administration (with the will annexed) are granted to Pierre Chouteau, jr., and John B. Sarpy, on the estate of said Pierre Chouteau, senior, deceased, and to the end that the property of the testator may be preserved for those who shall appear to have a legal right or interest therein, and that the said last will may be executed according to the request of the testator, we do hereby authorize then, the said Pierre Chouteau and John B. Sarpy, as such administrators, to collect and secure all and singular the goods and chattels, rights and credits, which were of the said Pierre Chouteau, senior, at the time of his death, in whosoever hands or possession the same may be found, and to perform and fulfil all such duties as may be enjoined on them by said will, so far as there shall be property, and the law charge then, and in general to do and perform all other acts which are or hereafter may be required of them by law.

In testimony whereof, I, Peter Ferguson, judge of the probate court in and for the county of Saint Louis, hereto sign my name
[L. S.] and affix the seal of said court, at office, this fifteenth day of September, A. D. 1849.

PETER FERGUSON, *Judge of probate.*

STATE OF MISSOURI, *county of St. Louis, ss.*

I, William F. Ferguson, clerk of the probate court for the county of St. Louis, certify, that the foregoing is a true copy of the letters of administration with the will granted to Pierre Chouteau, jr., and John B. Sarpy, on the estate of Pierre Chouteau, sr., deceased, as the same now remains of record in my office.

In testimony whereof I hereto set my hand and affix the seal of the
[L. S.] probate court for the county aforesaid, at office, in said county, this sixth day of April, in the year of our Lord 1854.

WILLIAM F. FERGUSON, *Clerk.*

Eighth. Plaintiff offered the deed of John B. Sarpy and others to the plaintiff.

Deed—Sarpy et al. to Sandford.

This deed, made and entered into this first day of January, 1852, by Pierre Chouteau, junior, Cyprien Chouteau, and John B. Sarpy, of the first part, and John F. A. Sanford, of the second part, witnesseth: That the party of the first part, in consideration of the sum of fifteen hundred dollars and cents, by the party of the second part to the party of the first part in hand paid, hereby gives, grants, sells, and conveys to the said party of the second part, his heirs and assigns, all that certain tract of land lying in the county of Saint Charles and State of Missouri, and being the tract of land claimed by one Antoine Lamarche, as derived from the Spanish government, surveyed by John Harvey, deputy surveyor for the said Antoine Lamarche, the plat of which survey was certified under the date of December 20th, 1805, and was received for record by Antoine Soulard, surveyor general for the Territory of Louisiana, February 27th, 1806; which said tract of land is situate on Lamarche creek, and contains seven hundred and fifty arpens, more or less, the title whereof was duly confirmed by the act of Congress of July 4th, 1836, entitled "An act confirming claims to lands in the State of Missouri, and for other purposes," approved July 4, 1836, and the said tract is situate in the county of St. Charles, in the State of Missouri. The party of the first part hereby granting to the party of the second part all the right, title, and interest which they jointly or severally possess, either in their own right or as executors of or trustees under the will of the late Pierre Chouteau, senior, deceased: To have and to hold to the said party of the second part, his heirs and assigns, now and forever.

Witness our hands and seals.

P'R CHOUTEAU, JR., [SEAL.]
JOHN B. SARPY, [SEAL.]
CYPRIAN CHOUTEAU. [SEAL.]

Witness—WILLIAM L. KID.

STATE OF MISSOURI, *county of St. Louis, ss.*

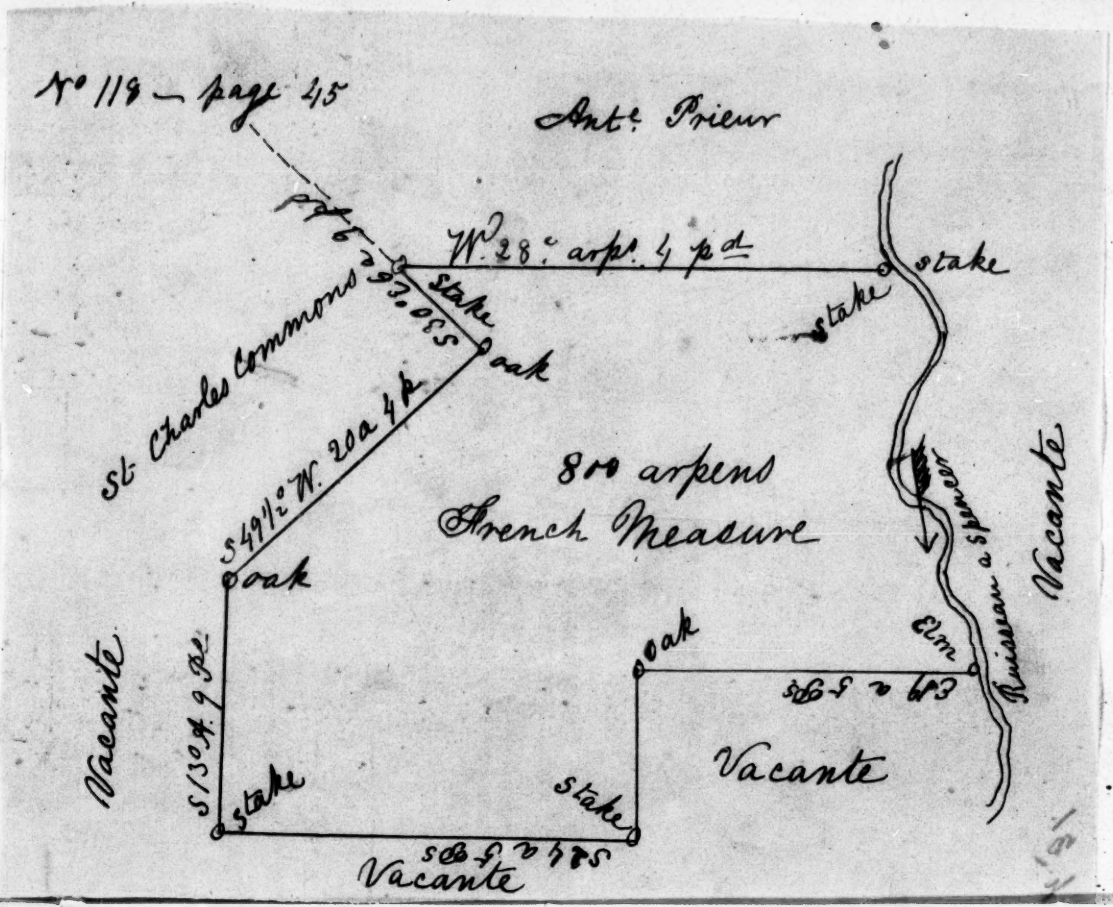
Be it remembered, that on the 1st day of April, 1852, before me, Simon F. Spalding, a justice of the peace within and for said county, came P. Chouteau, jr., and John B. Sarpy, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument of writing as parties thereto, and severally acknowledged the same to be their act and deed for the uses and purposes therein mentioned.

Taken and certified, the day and year last aforesaid.

SIMON F. SPALDING, *Just. of the peace.*

STATE OF MISSOURI, *county of Jackson, ss.*

Be it remembered, that Cyprian Chouteau, who is personally known to the undersigned justice of the peace to be the same person whose name


N° 118 — page 45
Ant.e Prieur
W. 28.c arpt. 4 p.d
stake
stake
stake
St. Charles Commons
S 49½° W. 20 a 4 p.
oak
oak
800 arpens
French Measure
Vacante
Vacante
Elm
Ruisseau a Spencer
Vacante
S 30° E. 9 Pc
stake
stake
Vacante

is subscribed to the foregoing deed as a party thereto, this day appeared before me, at the county of Jackson aforesaid, and acknowledged that he executed the said deed voluntarily, for the uses and purposes therein expressed.

In witness whereof I have hereunto set my hand, this 14th day of April, A. D. 1852.

LOT COFFMAN, *Justice of the peace.*

Ninth. Plaintiff offered a certified copy of the survey of 800 arpens of land in favor of Antoine Gautier, said survey made by James Mackay.

Survey of 800 *arpens made by J. Mackay.*

DISTRICT OF LOUISIANA, *District of St. Charles.*

Antoine Gauthier bought of L. Louis Gaud.

Ant'e Prieur.

No. 16.

[*For map, see original, page* 45.]

NOTA.—This land is joining St. Charles commons, and about 25 miles N. W. of St. Louis.

I do certify, that the above plot represents eight hundred arpens of land, French measure, situated in the district of St. Charles, district of Louisiana, and surveyed by me at the request of Anthony Gautier, who claims the same by virtue of a grant obtained by Louis Gaud from the Spanish government.

Given under my hand at St. Andrew du Missouri, the ninth day of April, year of our Lord eighteen hundred and five.

JAMES MACKAY.

In consideration of the above plot and certificate of survey performed by the deputy surveyor, James Mackay, in behalf of Antoine Gautier, said tract containing eight hundred arpens, French measure, or 684.42 poles acres, English measure. I have recorded the whole at f'o 18 of the book D, No. 16.

St. Louis, the 10th December, 1805.

(Signed) ANTOINE SOULARD,
G'al T'y of Louisiana.

OFFICE OF THE SURVEYOR GENERAL FOR ILL'S AND MO.,
ST. LOUIS, 19*th April*, 1854.

I certify that the above is correctly copied from the register d'arpentage, page 588, on file in this office.

JOHN LOUGHBOROUGH,
Surveyor general.

Survey in favor of Prieur.

Tenth. Plaintiff offered a duly certified copy of a survey in favor of Noel A. Prieur, alias Antonus Prieur, said survey made in

[*For survey, see original, page* 46.]

NOTA.—Los terminos puestos a los quatro angulos y indicados en el plano figuratibo. Todos los arpoles de las lineas van senalados, con una muezca sup'r y dos cananladuros inferiores, y los de drà e iz quer-do mued cados solamento. Arentado al lib'o B, de los exp'd de ap'r 8a d'ho 8a f'o 36, No. 35.

Don Antonio Soulard, ag'r par'r de los estable's de la Al'a Laisa certifice que fue medida, lindada y amonjouda à favor y en prevencia de A'o Prieur una tierra de 400 a planos medidos con la percha de la ciudad de Paris de 18 pies de rey lineales de la misma ciudad segun medida agraria de esta provà, cuy a tierra se halla situada 30 m., al N. O. de S'n Lais, lindando por el N. con la cazel de Ant'o Lamarche y por el S. E. y O., con tierras valdias del real dom'o cuyos apeos y medidas se hieciron sin to cara lo qu'l puede darde si la variacion de la aguja que es de 7 g's y 30 m's. E como consta del plano figurativo que antecede en el que vandriot adas las dimenciones y rumbos de los limites y demas confines, etc., cuyo apes se practico en virtud del decreto del Sr. Tent, de gob'r y sub-delegado de r'l hacienda Don Carlos Deh't Delassus, en f'ha de 3 de 7bre, 1801, a que accompaña y para que todo refaido conste doy el presente con el plano figurativo que precede in conformidad de las diligencias practicádas por el Tent'ã agr'e, Don Santiago Rankin, en f'ha del 23 Dieze, 1803, que firme al minuto de lo que doy fe.

St. Louis de Illinois, 20 de Enero, 1804.

(Signed) ANTONIO SOULARD,
Ag'r par'r.

(See record book A, page 240.)

RECORDER'S OFFICE, ST. LOUIS, 11*th April*, 1854.

I certify that the foregoing is correctly transcribed from page 240 of book A in this office.

ADOLPHE RENARD,
U. S. recorder of land titles in the State of Missouri.

Also a translation of the same.

Translation of survey in favor of Prieur.

NOTE.—The bounds set at the four corners are indicated on the plat.

All the line-trees were marked with one blaze and two notches; those on the sides were blazed only.

Registered in book B of the record of surveys for said post, folio No. 36, plat No. 35.

I, Antoine Soulard, surveyor general of the settlements of Upper Louisiana, do certify that there was measured and bounded, in favor and in presence of A. Prieur, a tract of 400 superficial arpens of land, with the perch of the city of Paris, 18 linear feet of the same city in length, according the mode of measuring lands adopted in this province; which land is situated 30 miles N. W. of St. Louis, bounded on the north by the house of Antoine Lamarche, and on the S. E. and W. by the vacant lands of the royal domain. The said survey was taken without regard to the variation of the needle, which is 7 degrees and 30 minutes east, as appears from the foregoing plat, on which are noted the length and the courses of the lines and other limits, &c. The said survey was executed in virtue of the decree of the lieutenant governor and sub-delegate of the royal treasury, Don Charles Dehault Delassus, dated the 3d September, 1801, hereto annexed; and in order that the whole may be available, I give the present certificate with the foregoing figurative plat, agreeably to the operations performed by the deputy surveyor, Don Santiago Rankin, on the 23d December, 1803, who signed the minutes to which I certify.

St. Louis of Illinois, 20 of January, 1804.

(Signed) ANTOINE SOULARD,
Surveyor general.

ST. LOUIS, *5th June*, 1854.

I have correctly translated the above from a document certified on the 11th April, 1854, by the recorder of land titles.

ADOLPHE RENARD.

Testimony of W. H. Cozzens.

11. The plaintiff introduced William H. Cozzens, who being duly sworn testified, that under an order of this court he had surveyed the tract of Antoine Lamarche for 750 arpens, according to the courses and distances thereof as laid down by John Harvey in his plot made 20th December, 1805, and received for record by Antoine Soulard 27th February, 1806; also that he had surveyed the tract known as survey No. 1779, being the United States survey of a confirmation for 640 acres in favor of Dissonet's representatives, according to the field notes thereof; also that he had laid down by protraction without running the lines, the tract of Antoine Gautier for 800 arpens, according to the plat and survey thereof by Mackay, made 1805; that he had surveyed the northern and western lines of a tract known as Noel A. Prieur's, being a survey of the United States, No. 1640, according to the field notes thereof; that by protraction he had also laid down the commons of St. Charles, survey No. 3280, a tract of Michael Reybold's representatives;

John Cook's, 800 arpens; John A. Smith's, 640 acres; Robert Spencer's tract, 640 acres; survey No. 1799; also surveys 1754, 1731, 760, 30, and 1808, as they severally appear upon a connected plot thereof, prepared by him from actual surveys or by protraction as above; said plot is marked X, and is hereto annexed as part hereof, and was put in evidence before the jury. That in laying down the positions of the tracts not actually surveyed by him, he had been governed by information obtained by him from the office of the surveyor general for Missouri and Illinois, consisting of field notes, maps, and plots in said office.

The witness stated that he had used in the above work a connected plot obtained from the office of the surveyor general; said connected plot is marked A, No. 1, and is hereto annexed as part hereof, and was put in evidence before the jury by the plaintiff.

That in making the actual surveys he did, he begun at the point A, on the map X, being the N. W. corner of the Prieur tract, also a corner to the Lamarche tract. The corner then called for in the original survey of said Prieur tract, is a stone and an oak; to find the said northwest corner of the Prieur tract, witness traced the northern and western lines thereof according to their bearings, and by the intersection of said lines; witness ascertained said point A; witness found said northern and western lines of the Prieur tract well marked by old blazes on the trees; the marks were high upon the trees, after the manner of marking Spanish lines. Witness has been accustomed to observe and trace ancient lines as a surveyor for years. The lines surveyed by witness were made with the variation of 7°. Having ascertained the corner at A of the Prieur tract, as laid down on map X, witness ran the northern line of the Prieur tract from the point A to Spencer's run, (this stream is also known as Lamarche's creek,) and found the distance to be thirteen arpens and a few feet; witness in this way ascertained the northern line of the Prieur tract to be common to that tract, and that of Lamarche 750 arpens, the corners, distances, and bearing all corresponding as above stated. At the point A where the call of the Prieur tract required a stone and an oak for a corner, witness found the stump of the corner tree that had been cut down. The bearing call from the point A, corner of Prieur tract to the point B on the map X in west line of Prieur tract, is common to the Prieur tract and the Lamarche tract. This line was run accordingly with said bearing calls, and was found to coincide. The line was well marked with antient marks on the trees as high up as a man could reach with an axe on horseback. At 15 arpens from the point A in Prieur's line running south 7° west, witness reached the point B on map X, which he assumed to be a corner of Lamarche's 750 arpens tract; no corner was found marked at point B in said line of Prieur. Witness then proceeded with the bearings and distances of the Lamarche survey as laid down by Harvey in 1805, being the lines from B to C, C to D, D to E, E to F, and F to G, following the yellow lines on map X, and found no marked lines or corners after departing from the lines of the Prieur tract. Witness also ran the closing call of the Lamarche survey, and

discovered that by the bearing thereof it would not reach the point of intersection of Spencer's run, and the northern line of the Prieur tract, by some two or three hundred feet; said bearing call as run is shown by the dotted line from the point H in the yellow lines on map X. After leaving the Prieur tract the timber is mostly undergrowth, and there was probably no trees at the time of Lamarche's original survey in 1805, to serve as markers, until you reach the bottom on the northern line running to Spencer's run. The western portion of the Lamarche tract lies on a bluff, as does also the eastern portion of the Gautier tract. Along a portion of the northern line of the Lamarche tract there is large timber, and, at the time of the original survey in 1805, there was no doubt large timber along Spencer, but it is now cut away. It is very seldom that an old survey of this date will close. The want of closing in this case is not greater than usual. Witness's experience is, that at the time of this original survey there was great carelessness every way in the surveys. Witness never knew one of these old surveys that did not overrun its quantity. The yellow lines on map X show the position of the Lamarche tract of 750 arpens laid down by witness according to the bearings, distances, and calls thereof, except as to the western line, which was so laid down as to close the survey, taking the intersection of Spencer and the northern line of the Prieur tract as a corner of said Lamarche tract; the blank square point inside the yellow lines and near Spencer shows the position of an orchard now standing and known as Lamarche's orchard. The house is not standing now but is located there, from the position of said house as laid down on a plot in the surveyor general's office.

The green lines on map X show the position of 640 acres surveyed by Robbins in 1817, as the location of Dissonet's confirmation. I ran round this tract according to the bearings and distances and calls of Robbins' survey, the same being known as survey No. 1779, and found the lines and corners all accurately marked. The red lines on map X show the position of the Gautier tract of 800 arpens laid down by me by protraction as aforesaid. The point A on said red lines, being a corner to survey 3280 of the commons of St. Charles, is a well known corner of said commons. There has never been any dispute as to this point as a corner of the commons. With this a beginning corner of the Gautier tract there would be no difficulty in surveying said tract. The Spencer's run as laid down on the map X runs in the main north and south, there are some smaller streams running into Spencer from the east and the west, but these are not called Spencer, nor have they any names. Witness surveyed and laid down on the map X the lands occupied and claimed, respectively, by Sebastian Willot, Joseph Hunn, and John McDonald, so far as the same lie within the Lamarche tract of 750 arpens, and also within the survey of Dissonnet's confirmation by Robbins, made in 1817, being that shown by the green lines on map X. Witness also calculated the quantity of lands claimed and occupied by each of said defendants within said survey of Lamarche, making Spencer's run the eastern boundary of said Lamarche's survey, and

he found the tract so claimed and occupied by Willot to be $98\frac{50}{100}$ acres, and all enclosed save two or three acres in the southwest corner of his tract. The tract so claimed and occupied by Hunn was found to be $43\frac{50}{100}$ acres, and all of it enclosed by said Hunn. The tract so occupied and claimed by McDonald contained $147\frac{30}{100}$ acres, but of this there is only 15 or twenty acres lying within the Lamarche survey shown by the yellow lines on map X that is enclosed. The positions of the lands claimed and possessed by defendants are laid down on map X, and shown by small lines as being within said Lamarche survey. Mrs. Snyder's claim and possession in the northwest corner of the green lines is laid down on map X by actual survey, and contains 40 acres. Witness judges the corner tree at A in Prieur and Lamarche's lines had been cut down 10 or 12 years. On cross examination by defendants' counsel, witness said, the lands held by defendants are all within the United States survey, No. 1779, on confirmation to Dissonett's representatives. When the plaintiff was proceeding with his proof in relation to the possession of the defendants, Mr. Coalter, their counsel, rose and made to the jury the following admissions: That the possession of the defendants was at the commencement of this suit the same as the evidence may show it to be at the date of the survey made and testified to by the witness Cozzens.

Map X attached to this transcript by agreement of parties.

Map A, No. 1, is as follows:

Map A, No. 1, in Cozzens' testimony.

[*For map A, No. 1, see original, page 54.*]

Eleventh. Plaintiff introduced a certified extract from the register of confirmations from the office of the surveyor general.

Extract from the register of confirmations.

No. of certificate.	To whom confirmed or granted.	Nature of claim and what book recorded.	Quantity and location.	Field notes, boundaries, remarks, &c.	Survey, at whose expense.
1779	Peter Chouteau or P. Dessonet's representatives, T's 46 and 47 N., R. 4 E.	S. Rights, F., p. 361.	640 ac's, Spencer's run.	To be surveyed as nearly in a square as may be, so as to include his improvements.	United States.

OFFICE OF THE SURVEYOR GENERAL,
ST. LOUIS, *April 24th*, 1850.

I certify that the above is correctly extracted from page 80, of list A, in the register of confirmations of private land claims in Missouri, on file in this office, and which list was transmitted to the said office by Frederick Bates, recorder of land titles in the Territory (now State) of Missouri, pursuant to the fourth section of the act of Congress of the 13th June, 1812, entitled "An act making further provision for settling the claims to land in the Territory of Missouri," and the acts of Congress subsequently passed. The No. "1779" was given to the above claim of "Peter Chouteau" by this office.

M. LEWIS CLARK,
Surveyor general.

Here the plaintiff rested his case.

The defendants introduced the following evidence, to wit:

First. Confirmation by Recorder Bates, the same introduced by plaintiff.

Second. A copy of survey by United States, No. 1779, being location by Robbins of said confirmation.

United States survey, No. 1779.

[*For map, see original, page* 56.]

Surveyed for Peter Chouteau or P. Dessonet's representatives, six hundred and forty acres:

Beginning at corner of surv. No. 1779, on line of surv. No. 1640, at a post, from which a w. oa. 18 in's dia'r br's S. 74° W., distant 66 links to a do. 40 in's dia'r, b's N. 79° W. 50 links; thence S. 83° E. with said last mentioned surv., 61.18 ch's to cor., 81.00 ch's set a post, from which b. o. 8 in's dia'r br's N. 85° E., ds's 10 l., and a do. 9 in's dia'r br's N. 45 W., dis's 10 l.; thence N. 27.20 ch's in T. line where set a post, cor. to sections 46, 33, T. 46 & 47 N., R. 4 E., from which a b. o. 10 inch's dia'r br's N. 10° E., dist. 11 l'ks to a do. 12 in. dia'r, b'rs S. 30 E., dist. 10 links, (measured E. 36.00 chains to cor. of sect. 33 and 34, T. 47 N., R. 4 E.,) 62.00 ch's, spring branch 10 l's over course N. W. 72.50 ch's, b. j. 8 in. dia'r 85.00 ch's, set a p., from wh. a b. j. 9 in's dia'r b's S. 82° W., dist. 61 l'ks, and a do. 4 in's dia'r b's N. 51° E., dist. 33 l.; thence W. 9.50 ch's, spring branch 10 links ov. C. N. 27, b. jack 8 in's dia'r 80 ch's in line of surv. No. 1799, where set a p., fr. wh. a w. o. 20 in. dia'r b's 15 W.

In whose name, Peter Chouteau or Dissonet's representatives. Acres, 640, hundredths.

RECORDER'S OFFICE, ST. LOUIS, 19*th April*, 1854.

The above is a correct abstract from the register of patent certificates in this office.

ADOLPHE REINARD,
U. S. recorder of land titles in the State of Missouri.

Fifth. A patent on said confirmation.

Patent to Dissonet's representatives.

The United States of America, to all to whom these presents shall come, greeting:

Know ye, that there has been deposited in the General Land Office a certificate numbered seven hundred and six of the recorder of land titles at St. Louis, Missouri, whereby it appears that in pursuance of the several acts of Congress for the adjustment of titles and claims to lands, the legal representatives of Dissonet have been confirmed in their claim to a tract of land, containing six hundred and forty acres, bounded and described as follows, to wit:

Beginning at a post, corner of survey number one thousand seven hundred and ninety-nine, in line of survey number one thousand six hundred and forty, from which a w. oak eighteen inches in diameter bears south seventy-four degrees west, distant sixty-six links, and a w. oak forty inches in diameter bears north seventy-nine degrees west, distant fifty links; thence south eighty-three degrees east with said survey last mentioned; at sixty-one chains and eighteen links a corner; eighty-one chains to a post, from which a b. oak eight inches in diameter bears north forty-five degrees east, distant ten links, and a b. oak nine inches in diameter bears north forty-five degrees west, distant ten links; thence north at twenty-seven chains and twenty links intersects township line, at which there is a post, corner to sections four and thirty-three, in townships forty-six and forty-seven north, of range four east, from which a b. oak ten inches in diameter, bears north ten degrees east, distant eleven links, and a b. oak twelve inches in diameter bears south thirty degrees east, distant ten links, (measuring east thirty-six chains to corner of sections thirty-three and thirty-four, in township forty-seven north, of range four east;) at sixty-two chains a spring branch ten links over, course northwest; at seventy-two chains and fifty links a b. jack eight in. diameter; eighty-five chains to a post, from which a b. jack nine inches in diameter bears south eighty-two degrees west, distant sixty-seven links, and a b. jack four inches in diameter bears north fifty-one degrees east, distant thirty-three links; thence west, at nine chains and fifty links, a spring branch ten links over, course north; at twenty-seven chains a b. jack eight inches in diameter, eighty chains, in line of the survey number one thousand

dist. 170 l's; thence south with said survey 3.00 l. stream 10 l's, ov. C. W. 55.00 ch's, p. o. 18 in's dia'r 75.00 ch's, to the place of beginning.

March 6th, 1817. P. K. ROBBINS, *D. S.*

SURVEYOR'S OFFICE, ST. LOUIS, *September 27th*, 1848.

The connections of survey No. 1779 with the adjacent private and public surveys are this day laid down on the record.

(Signed) F. R. CONWAY,
Surveyor of the public lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE, ST. LOUIS,
September 27th, 1848.

The foregoing plat and description of survey No. 1779, and the certificate of connections therewith, are correctly copied from pages 35 and 36 of record book B, in this office.

F. R. CONWAY, *Surveyor of the Public lands in the States of Illinois and Missouri.*

Third. A transcript of an entry from the office of surveyor general, showing that survey No. 1779 was issued to the recorder of land titles, January 30th, 1823.

Transcript of entry from office surveyor general.

Number of survey, 1779. To whom confirmed or granted. Peter Chouteau or P. Dessonett's representatives. Reference to tne confirmation or returns by the recorder. A., 80. Area of the claims, 640 acres. Nature of claim, S. R. By whom surveyed, P. K. Robbins. Date of survey, March 6th, 1817. Where situated, township 46 and 47 N., range 4 east. Original field notes of the survey. File. Recorded book B, page 35. When returned to the United States recorder of land titles, 30th January, 1823. Remarks.

OFFICE OF THE SURVEYOR GENERAL FOR ILL. AND MO.,
ST. LOUIS, 19*th April*, 1854.

I certify that the above is a correct transcript from the register of private land claims on file in this office.

JOHN LOUGHBOROUGH,
Surveyor general.

Fourth. The certificate of recorder of land titles showing that patent certificate in favor of Dissonet's representatives was issued February 1st, 1823.

Abstract from register patent certificates.

Registry of patent certificates issued from the office of the recorder of land titles. Patent certificate, No. 706. Date 1823, February 1st.

to intersection where the northwest corner of Prieur should have been; found trees then 8 years ago, but no marks for a corner; found trees marked along said line of Prieur tract, thinks they were made in 1817. Four years ago was there again; the trees stood near the corner of Prieur tract, and found stumps; the trees had been cut down.

Seventh.—A deed from Peter Chouteau and wife to Auguste Chouteau.

Deed—P. Chouteau and wife to A. Chouteau.

Saepent tous ceux qui ces presentes verront, que moi, Pierre Chouteau et Brigite mon épouse, demeurant en la ville et district de Saint Louis, Territoire de la Louisiane, pour prix en consideration de la somme de trois cent douze piastres 81, sols que nous été bien et duement payée par Mr. Auguste Chouteau, notre pere, de la ville, district et territoire cy-dessus, ainsi que nous le reconnaissons par ce le presentes et de la quelle somme nous le tenons quitte et déchargeons lui ses hoir ou ayant causes avons ce jourd'hui vendu, cédé, quitte, delaissé, abandonné, et transporte au dit Auguste Chouteau, ses hoir ou ayant causes pour les droits, titres, actions, pretentions, et proprietés que nous avons et pouvant avoir sur un certain morceau de terre de huit cent arpens en superfine, situé dans le district de Saint Charles, près du ruisseau Spencer, le dit morceau de terre nous appartenant *coussue*, l'ayant acquét de Josiah McLanahan et Jacob Harry, le onze Joillet mil huit cent huit, ainsi qu'el parait plus amplement par le registre livre B, du recorder du district de Saint Louis, pages 195 et suivante, transportient au dit Sieur Auguste Chouteau, la gavantie qui nous en a été faite sans le gavantir nous même particulierement pour pas lui ses hoirs ou ayant causes, en jouir faire et disposer comme de chase a lui appartenante et par lui legitimement acquire a commencer la jouissance dés de jourd'hui.

En foi de quoi nous avons signes, scellés et délivres ces presentes à St. Louis, ce deuxieme Mars, de l'année de notre Seigneur mil huit cent dix. Le nombre "81" en interligne.

P'RE CHOUTEAU, [s. c.]
BRIGITE CHOUTEAU. [s. c.]

En presence de—
M. P. LEDUC.

LOUISIANA TERRITORY,
District and township of St. Louis, sct.

Before me, the subscriber, one of the justices of the peace in and for the township aforesaid, personally came and appeared Pierre Chouteau and Brigite, his wife, who acknowledged the within instrument of writing to be their and each of their act and deed, hands and seals, for the purposes therein contained, and as such desired the same to be recorded.

Given under my hand this 2d day of March, 1810.

M. P. LEDUC, *J. P.*

seven hundred and ninety-nine, where there is a post, from which a w. oak twenty inches in diameter bears south fifteen degrees west, distant one hundred and seventy links; thence south with said survey; at three hundred links a stream ten links over, course west, fifty-five chains to a p. oak eighteen inches in diameter, seventy-five chains to the place of beginning: being in townships forty-six and forty-seven north, of range four east, of the fifth principal meridian line, and being survey number one thousand seven hundred and seventy-nine, in the State of Missouri.

There is, therefore, granted by the United States, unto the said legal representatives of Dissonet and to their heirs, the tract of land above described: To have and to hold the said tract, with the appurtenances, unto the said legal representatives of Dissonet, and to their heirs and assigns, forever.

In testimony whereof, I, Zachary Taylor, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

[SEAL.] Given under my hand, at the city of Washington, the ninth day of March, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fourth.

Z. TAYLOR.

By the President:

By THO. EWING, JR., *Sec'y.*

N. SARGENT,
Recorder of the General Land Office.

Recorded vol. 11, pages 43, 44.—Ex'd.

Testimony of F. W. Rowland.

Sixth. Frederick W. Rowland, a witness called by the defendants, duly sworn, stated that he is the county surveyor of St. Charles county, Mo., elected such three years ago; when elected, had been several years deputy county surveyor; altogether has been a surveyor of, say, 10 years; has run the lines of the Lamarche tract, found no corners; has surveyed Spencer's claim, being U. States No. 1799, and found trees marked as corners; found trees marked along the Lamarche lines, so far as it runs with the Prieur tract, but none after leaving said Prieur tract. He blocked out the trees, and found the marks along the Prieur tract to be 34 or 35 years old; this was, say three years ago. In passing round the lines of the Lamarche tract, witness found several trees sixty years old, but no marks upon them; the growth was generally small on the western part of the Lamarche survey; on the southern line in the bottom there was large timber. Witness found the corner of Spencer's survey, No. 1799, by running the eastern line of survey No. 1799, and the northern line of Prieur's tract, survey 1640, till they intersected; at the place where the corner should have been there was no tree nor any corner, but there were some oak trees near at hand; this was 8 years ago. Found also by running the north and west lines of the Prieur tract

TERRITORY OF MISSOURI,
County of St. Charles, ss.

I, William Christy, junior, ex officio recorder for the county aforesaid, certify that the foregoing instrument of writing was, on the first day of March, 1819, filed for record, and on the fifteenth day of March, 1819, by me recorded in book F, page 35.

Witness my hand and seal the day and year last aforesaid.

WM. CHRISTY, JR.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that Joseph A. Sire and Lewis V. Bogy, two creditable witnesses, this day appeared before the undersigned, clerk of the St. Louis court of common pleas within and for the county aforesaid, who being duly sworn depose and say: That they, and each of them, personally knew Pierre Chouteau, whose name is subscribed to the within deed as a party thereto; that they, and each of them, well know the signature of said Pierre Chouteau, having seen the said Pierre Chouteau write; and believe that the name subscribed to said deed, as a party thereto, was subscribed to said deed by the said Pierre Chouteau. And the said Joseph A. Sire and Lewis V. Bogy do further depose and say, that they, and each of them, personally knew Marie P. Leduc, whose name is subscribed to said deed as a witness; that they well knew his signature, having seen said Marie P. Leduc write, and believe that the name of Marie P. Leduc subscribed to said deed as a witness was thereto subscribed by said Marie P. Leduc.

In testimony I hereto set my hand and affix the seal of said court, at office, in the city of Saint Louis, this 7th of October, A. D. 1848.

[L. S.]

P. TIPPETT, *Clerk.*

STATE OF MISSOURI,
County of Saint Charles.

I, Benjamin Emmons, jr., recorder for Saint Charles county, certify that the foregoing instrument of writing was filed for record in my office, May 18th, 1850, and is truly recorded in book W, pages 465, 466.

In witness whereof I hereunto set my hand and official seal, this 12th day of July, 1850.

[L. S.]

BENJAMIN EMMONS, JR., *Recorder.*

Also translation.

Translation of deed—P. Chouteau and wife to A. Chouteau.

Know all men that will see these presents, that I, Pierre Chouteau, and Brigita my wife, living in the town and district of Saint Louis, Territory of Louisiana, for the price and in consideration of the sum of three hundred and twelve dollars and eighty-one cents, which has been well and truly paid us, by our brother Mr. Auguste Chouteau, of the town and territory above mentioned, as we acknowledge by these

presents, and of which sum we hold him and his heirs and assigns released and discharged, have this day sold, ceded, quitted, relinquished, abandoned and transferred to the said Auguste Chouteau, his heirs and assigns, all the rights, titles, claims, pretensions and property, which we have and can have to a certain parcel of land, of eight hundred arpens superficial measure, situated in the district of Saint Charles, near Spencer's run, the said parcel of land belonging to us, as having acquired it of Josiah McLanahan, and Jacob Harry, the eleventh July, one thousand eight hundred and eight, as more fully appears from the records of the district of Saint Louis, book B, pages 195 and following, transferring to the said Mr. Auguste Chouteau the warranty which has been made to us, without warranting it ourselves particularly, to enjoy and useit, and to dispose of it by himself, his heirs and assigns, as of a piece of property belonging to him, and by him legitimately acquired; this use of it to commence from this date. In testimony of which we have signed, sealed, and delivered these presents at Saint Louis, the twelfth of March, in the year of our Lord one thousand eight hundred and ten.

The numbers 81 interlined.

P'RE CHOUTEAU, [SEAL.]
BRIGITA CHOUTEAU, [SEAL.]

In presence of—

M. P. LEDUC.

Eighth.—A deed from Augustus Chouteau's executors to Willot.

Deed—A. Chouteau's executors to S. Willot.

Know all men by these presents, that whereas, at the November term of the county court, for the county of Saint Louis, in the year eighteen hundred and twenty-nine, on the twelfth day of said month, Therese Cerre Chouteau, executrix of the last will and testament of Auguste Chouteau, deceased, moved the court that the whole of the personal estate mentioned in a petition heretofore laid before said court be reserved from sale, and that real estate be sold to pay the debts due by said estate; and it being then proved that publication of the aforesaid application had been made according to law and the order of said court, and upon examination of the whole matter, it was considered, ordered, and decreed, that the whole of the personal estate prayed to be reserved, be reserved, and that after the said executrix should have had the real estate, mentioned and described in said order, appraised according to law, she should sell at private sale, for not less than the three-fourths of its appraised value, the whole or any part thereof, upon such terms as to the said executrix should appear most advantageous and expedient, for the more ready and effectual payment of the debts of the deceased, and the general advantage of the estate and the persons interested therein.

In pursuance whereof the said executrix did, on the twenty-second day of December, in the year 1829, sell to Sebastian Willet or Willot, one hundred and sixty acres of land, being the southwest corner of

United States survey number seventeen hundred and seventy-nine, situate in the county of St. Charles, in townships forty-six and forty-seven north, range four east, which tract of land so sold is bounded on the north and east by the balance of said survey, and on the west by Robert Spencer's survey, the northern and eastern boundary line of the land sold being parallel to the northern and eastern line of the original survey, and surveyed as follows, to wit: Beginning at the southwest corner of the original survey; thence south eighty-three degrees east, with the southern line of the original survey, forty chains and fifty links; thence north forty-two chains and fifty links; thence west forty chains to the western line of the original survey; thence thirty-seven chains and fifty links following the line of the original survey south to the beginning; for the price and sum of two hundred and forty dollars, one hundred and fifty dollars whereof were then paid in ready money, and ninety dollars payable twelve months thence ensuing; which sale, on return thereof made to the county court aforesaid, on the fifteenth day of February, in the year eighteen hundred and thirty, was affirmed, and it was considered and adjudged by the said court that the said sale, so as aforesaid made, should be and remain firm and stable forever, as by the record and proceedings of the same court, relation thereunto being had, will more fully and at large appear. Now the said Therese Cerre Chouteau, for and in consideration of the premises and the sum of two hundred and forty dollars aforesaid, to her in hand paid by the said Sebastian Willet, otherwise called Sebastian Wilott, at and before the ensealing and delivering hereof, the receipt whereof she doth hereby acknowledge, and thereof acquit and forever discharge the said Sebastian, his heirs, executors, and administrators, by these presents, hath sold, assigned, transferred, and conveyed, and by these presents doth sell, assign, transfer, and convey unto the said Sebastian Willet the tract of land above mentioned to have been sold, and described as above, containing one hundred and sixty acres of land, together with the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and also all the estate, right, title, interest, property, claim and demand whatsoever of the said Auguste Chouteau, of, in, or to said land at the time of his death, or of her, the said Therese Cerre Chouteau, in law or equity, or otherwise howsoever, of, in, to, or out of the same: to have and to hold the said tract of land, hereditaments and premises hereby sold, with the appurtenances, unto the said Sebastian Willet, his heirs and assigns, forever. In testimony whereof the said Therese Cerre Chouteau has hereunto set her hand and affixed her seal, at St. Louis, this twenty-second day of November, in the year of our Lord eighteen hundred and thirty-one.

CERRE CHOUTEAU, [SEAL.]
Executrix.

Signed, sealed, and delivered in presence of—
HENRY CHOUTEAU.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this fifth day of January, in the year of our Lord eighteen hundred and thirty-two, before me, the clerk of the county court within and for the county aforesaid, appeared Therese Cerre Chouteau, who is personally known to me to be the person whose name is subscribed to the foregoing instrument of writing, as having executed the same, and acknowledged the said instrument to be her act and deed for the purposes therein mentioned.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, the day and year aforesaid.

[SEAL.] HENRY CHOUTEAU, *Clerk.*

STATE OF MISSOURI,
County of St. Charles, ss.

I, William Christy, jr., clerk of the circuit court and ex-officio recorder within and for the county aforesaid, certify that the foregoing was filed for record 6th February, 1832, and by me recorded the 8th of February, 1832, in book I & J, pages 45 and following.

Given under my hand and seal of said court, the day and year last aforesaid.

[SEAL.] WM. CHRISTY, JR.

Ninth.—David McCausland, sheriff, to Wm. J. McIlhiney and John D. Coalter.

Deed—D. McCausland, sheriff, to McIlhiney and Coalter.

Be it remembered, that on the 17th day of May, eighteen hundred and thirty-nine, the circuit court of St. Charles county, then in session, made the following order, in a certain case of partition then pending in said court, to wit:

RENE PAUL, Gabriel R. Paul, Edmund W. Paul, Charles B. DuBreuil and Louisa, his wife, Amelia Paul, Tullia Paul, Julius S. Paul, petitioners,
vs.
THERESE CERRE CHOUTEAU, Gabriel S. Chouteau, Henry Chouteau, Thomas F. Smith and Emilie his wife, Gabriel Paul, and Gabriel Paul as guardian of Adolphe Paul, Estelle Paul, Therese Paul and Pierre Chouteau, jr. } In partition.

Now at this day appear said parties, by their attorneys, and the commissioners heretofore appointed to make partition of the real estate mentioned in the petition having filed their report, stating that said real estate is so situated that partition thereof cannot be made among said parties without great prejudice to the owners of the same; and the court being satisfied that said report is just and correct, doth order that David McCausland, sheriff of the county of St. Charles, sell according

to law the real estate, as mentioned and described in the petition and order of partition, at public auction, to the highest bidder, on the first day of the next term of this court, to be held at the court-house in St. Charles county, on the second Monday after the fourth Monday in August next, while the circuit court shall be in session, upon the following terms, to wit: One-third of the purchase-money to be paid in hand, one-third in six months, and one-third in twelve months, taking bond with good and sufficient security for the payment of the purchase-money, and first giving notice of the time and place and terms of sale as required by law; and that he make report of his proceedings to the next term of this court. And in pursuance and by virtue of said order of court, I, David McCausland, sheriff of St. Charles county, did proceed to advertise the real estate in the petition mentioned, by giving more than twenty days' notice of the time and place of sale, and the real estate to be sold, by advertisements published in the St. Charles Clarion, a newspaper printed in the town and county of St. Charles, in the State of Missouri, which advertisement, so far as the same relates to the property mentioned hereinafter, is in the words and figures following, to wit:

On petition for partition, in St. Charles circuit court.

RENE PAUL, GABRIEL R. PAUL, Edmund W. Paul, and Charles B. DuBreuil and Louise his wife, Amelia Paul, Tullia Paul and Julius S. Paul, by Rene Paul, guardian and curator of their estates, plaintiffs,

versus

THERESE CERRE CHOUTEAU, GABRIEL S. CHOUTEAU, Henry Chouteau, Edward Chouteau, Thomas F. Smith and Emilie his wife; Gabriel Paul, as guardian of Adolphe Paul, Estelle Paul and Therese Paul and Pierre Chouteau, jr., defendants.

By virtue of an order of sale made by the circuit court of St. Charles county, in Missouri, in the above cause, on the 17th day of May, in the year eighteen hundred and thirty-nine, I will, on the ninth day of September next, it being the first day of the next term of said circuit court, and while the circuit court is in session at the court-house in the town and county of St. Charles, publicly sell to the highest bidder the several town lots and tracts of land hereinafter described, on the following terms, to wit: one-third of the purchase-money to be paid in hand; one-third in six months, and one-third in twelve months. Bond and good security will be required, and a lien will be reserved on the land to secure the payment of the purchase-money; a lot of ground, containing four hundred and eighty acres, being part of survey No. 1779, conveyed to said Auguste Chouteau by Pierre Chouteau, by deed, March 2d, 1810. Recorded, book F, page 34; situated near Spencer's run, and which was acquired from Joseph McLanahan and Jacob Harrey, by deed dated the 11th July, A. D. 1808.

The above sale will be made for the purpose of partition among the heirs of Auguste Chouteau, deceased.

DAVID McCAUSLAND,
Sheriff of St. Charles county.

August 1st, A. D. 1839.

And in conforming to said order of court and said advertisement, I did offer the *the* said real estate for sale, at the court-house in the town and county of St. Charles, on the ninth day of September, eighteen hundred and thirty-nine, whilst the circuit court for said county was in session, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day; and William J. McIlhiney and John D. Coalter, being the highest and best bidders for the tract of land above described, became the purchasers, at the price of fourteen hundred and forty-nine dollars and sixty cents. And I, the said sheriff, did, as required by law, make a report of the said sale to the circuit court of St. Charles county; and on the 14th day of September, 1839, the said sales were confirmed by said court, and an order made directing me, the said sheriff, to execute purchasers' deeds of conveyance pursuant to said sales, upon payment of the purchase-money.

Now, therefore, I, David McCausland, sheriff of the county of St. Charles, in consideration of the sum of fourteen hundred and forty-nine dollars and sixty cents, to me in hand paid by William J. McElhiney and John D. Coalter, do hereby grant, bargain and sell, to the said William J. McElhiney and John D. Coalter, all the right, title, claim and interest, which the above named parties to the said suit of partition had in and to the said tract of four hundred and eighty acres of land, on the day upon which the order for the sale thereof was made, as fully and completely as I am by law authorized to sell and convey the same; to have and to hold the said tract of land to the said William J. McElhiney and John D. Coalter, their heirs and assigns, forever.

In witness whereof, I have hereunto set my hand and affixed my seal, at St. Charles, Missouri, this 28th day of December, eighteen hundred and forty.

DAVID McCAUSLAND, *Sheriff.* [SEAL.]

Signed and sealed, presence of—

STATE OF MISSOURI,
County of St. Louis.

Be it remembered, that on this 12th day of February, A. D. 1841, before me, H. H. Wardlaw, a justice of the peace within and for the county aforesaid, came David McCausland, who is personally known to be the person whose name is subscribed to the foregoing instrument of writing as party thereto, as having executed the same, and acknowledged the same to be his act and deed for the purposes therein mentioned. Taken and certified the day and year aforesaid.

H. H. WARDLAW,
Justice of the peace.

STATE OF MISSOURI,
St. Charles county, ss.

I, Ludwell E. Powell, recorder for St. Charles, certify the within instrument was filed for record in my office, February 12th, 1841, and is duly recorded in book O, page 111.

Given under my hand and official seal, this 13th day of
[L. S.] March, A. D. 1841.

LUDWELL E. POWELL, *Recorder.*

Tenth.—A deed from John D. Coalter and wife to McIlhiney.

Deed—Coalter and wife to McIlhiney.

This deed, made this 8th day of March, in the year eighteen hundred and forty-two, witnesseth: That we, John D. Coalter and Mary his wife, for and in consideration of the sum of one dollar to us in hand paid by William J. McIlhiney, the receipt whereof is hereby acknowledged, have sold and conveyed, and by these presents do sell and convey unto the said William J. McIlhiney all our interest and claim in and to a certain tract of land lying in the county of St. Charles, Missouri, being the same tract purchased by the said McIlhiney and Coalter at a sale made by the sheriff of St. Charles county, under an order of the circuit court for partition amongst the heirs of August Chouteau, deceased, for a more particular description of which land reference is made to the deed of David McCausland, sheriff, conveying said land to Coalter and McIlhiney: to have and to hold the said land to the said McIlhiney and his heirs forever. And in testimony whereof we have hereunto set our hands and seals, the date above.

JOHN D. COALTER, [SEAL.]
MARY ARUNA COALTER. [SEAL.]

STATE OF MISSOURI,
County of St. Charles.

Be it remembered, that on this 10th day of March, A. D. 1842, before me, the undersigned, a justice of the peace within and for the county aforesaid, personally came John D. Coalter and Mary A. Coalter, his wife, both of whom are personally known to me to be the persons whose names are subscribed to the foregoing instrument of writing as parties thereto, as having executed the same, and acknowledged the same to be their act and deed for the purposes therein mentioned. She, the said Mary A., being by me first made acquainted with the contents thereof, and examined separate and apart from her husband, acknowledged and declared that she executed the same, and relinquishes her right of dower to the lands and tenements therein described, freely and voluntarily, without compulsion or undue influence of her said husband. Taken and certified the day and year aforesaid.

H. H. WARDLAW,
Justice of the peace.

STATE OF MISSOURI,
St. Charles county, ss.

I, Ludwell E. Powell, recorder for St. Charles county, certify the foregoing instrument of writing was filed for record in my office March 10th, 1842, and is duly recorded in book P, page 130.

Given under my hand and official seal, this 26th day of [L. S.] March, 1846.

LUDWELL E. POWELL, *Recorder.*

Eleventh.—A deed from McIlhiney and wife to McDonald.

Deed—McIlhiney and wife to McDonald.

This deed, made this seventeenth day of March, in the year eighteen hundred and forty-two, witnesseth: That we, William J. McIlhiney, and Henrietta, his wife, for and in consideration of the sum of four thousand dollars, to us in hand paid by John McDonald, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said John McDonald, the following real estate situate in the county of St. Charles, Missouri, to wit: A lot of ground, containing four hundred and eighty acres, being part of survey number seventeen hundred and seventy-nine, (1779,) conveyed to Auguste Chouteau by Pierre Chouteau, by deed of March 2d, 1810, recorded in book F, page 34, situate near Spencer's run, and which was acquired from Joseph McLanahan and Jacob Harry by deed, dated the 11th July, A. D. 1808, being the same land conveyed by David McCausland, sheriff of St. Charles county, to William J. McIlhiney and John D. Coalter, by deed bearing date December 28, 1840, and recorded in book O, page 111, of the recorder's office of St. Charles county. It is understood that from the above tract is excepted a tract containing twelve acres and eighty-six hundredths of an acre, heretofore sold by McIlhiney and wife to Joseph Snyder, by deed recorded in book O, page 200, of the recorder's office of St. Charles county, for a more particular description of which reference is made to said deed: to have and to hold to the said John McDonald and his heirs forever, and we will forever warrant and defend the title of the said land to the said McDonald, and his heirs and assigns, free from the lawful claim or claims of all persons whatsoever.

In testimony whereof we have hereunto set our hands and seals, the day and date above written.

WM. J. McELHINEY, [SEAL.]
HENRIETTA McELHINEY, [SEAL.]

STATE OF MISSOURI,
County of St. Charles.

This day personally appeared before me, Benjamin Emmons, a justice of the peace for the county aforesaid, William J. McIlhiney and Henrietta, his wife, both personally known to me to be the persons

No. 13. The plaintiff has as yet produced no evidence that he is entitled to the benefit of the Lamarche confirmation of 1836.

No. 14. The confirmation of 1836 to Lamarche's representatives is a *a* confirmation of the claim of 750 arpens presented by Lamarche in 1811, and not a confirmation of the claim for 400 arpens presented by McLanahan and Harry in 1808.

And to the refusal of the court to give said instructions 12, 13 and 14, defendants excepted at the time.

After the verdict the defendants filed a motion for a new trial.

Motion for new trial.

United States circuit court, April term, 1854.

SANFORD
vs.
McDONALD, WILLOTT & HUNN. } Trespass and ejectment.

And the said defendants come and move the court to set aside the verdict in this case and grant a new trial, for the following reasons:

1st. The verdict is not such as can legally be rendered in the case.

2nd. The verdict is against law.

3d. The verdict is against the instructions of the court.

4th. The verdict is against the evidence.

5th. The court refused to give legal and proper instructions to the jury, when moved thereto by the defendants.

6th. The court permitted illegal evidence to go to the jury, to the prejudice of the defendants.

7th. The verdict was the result of a mistake of the jury on a point of law.

COALTER,
Att'y for defendants.

The court, on consideration of the said motion, overruled the same, and to the overruling of said motion defendants excepted at the time; afterwards defendants moved the court to arrest the judgment.

Motion in arrest of judgment.

United States circuit court, April term, 1854.

SANFORD
vs.
McDONALD, WILLOTT & HUNN. } Trespass and ejectment.

And the said defendants come and move the court to arrest the judgment in this case, for the following reasons:

1st. The verdict is such as will require the court to render separate judgments against the defendants, whereas only one final judgment can legally be rendered in the case.

2nd. The declaration charges the defendants with a joint trespass and ejectment, and the verdict finds each one guilty of a separate and independent trespass, and acquits them of any joint trespass.

COALTER, *Att'y for defendants.*

On consideration thereof, court overruled the same, and to the opinion of the court in overruling said last mentioned motion defendants excepted at the time, and prayed *his* exceptions to be sealed, signed and allowed as part of the record, which is done accordingly.

R. W. WELLS, [SEAL.]

MISSOURI DISTRICT, *sct.*

I, Benjamin F. Hickman, clerk of the United States circuit court for the district aforesaid, do certify that the foregoing seventy-eight pages, including this one, contain a full and complete transcript of the record and proceedings in the case of John F. A. Sanford against Sebastian Willot and others, as fully as the same remains on file in my office.

In testimony whereof I have hereunto set my hand and affixed [L. S.] the seal of said court, at office, in the city of St. Louis, this fifth day of June, 1854.

BEN. F. HICKMAN, *Clerk.*

Writ of error.

UNITED STATES OF AMERICA,
Missouri district, sct.

The President of the United States of America, to the judges of the circuit court of the United States for the eighth circuit and district of Missouri, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in said circuit court of the United States for the district of Missouri, before you, between John F. A. Sandford as plaintiff, and Sebastian Willot, John McDonald, and Joseph Hunn, as defendants, a manifest error hath happened, to the great damage of the said defendants, Willot, McDonald, and Hunn, as by their complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said [L. S.] Supreme Court, this fourth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

BEN. F. HICKMAN,
Clerk circuit court United States, Mo. district.

Allowed by me, R. W. WELLS,
District judge United States for Mo.

The United States of America, to John F. A. Sandford greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the Missouri district, wherein Sebastian Willot, John McDonald and Joseph Hunn, are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Robert W. Wells, district judge of the United States for the Missouri district, and one of the judges of the circuit court of the United States for said district, this fourth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

R. W. WELLS,
District judge United States for Mo.

This citation has been legally served on the said John F. A. Sandford, the plaintiff in the said cause.

May 4th, A. D. 1854.

GLOVER & RICHARDSON,
For JOHN F. A. SANDFORD.

[For map X, see original, attached to record, p. 81.]

Assignment of errors.

In the Supreme Court of the United States, December term, 1854.

JOHN MCDONALD, SEBASTIAN WILLOT, and JOSEPH HUNN, plaintiffs in error,
vs.
JOHN F. A. SANDFORD, defendant.

The plaintiffs in error who were defendants in the circuit court, say there is manifest error in the record and proceedings of said court, and pray that the judgment of said court may be reversed, for following reasons:

Because said court erred: First, in permitting improper evidence to go before the jury.

2d. In refusing to give proper instructions asked by the plaintiffs in error.

3d. In giving improper instructions.

4th. In overruling the motion for a new trial.

5th. In overruling the motion in arrest of judgment.

M. BLAIR, *For plaintiff in error.*

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SUPREME COURT OF THE UNITED STATES.

No. 124.

BURR H. BETTS, Appellant,

vs.

JOHN H. LEWIS and MARY M. F. LEWIS, his wife.

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